

Law on
INTERIM INJUNCTIONS

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1. Principles governing grant of interim injunctions

It is well settled that fulfillment of certain conditions (noted below) are must for grant of interim injunctions---- (i) **Prima facie case**; (ii) **Balance of convenience**; (iii) **Irreparable injury**. A finding on 'prima facie case' would be a finding of fact. However, while arriving at such finding of fact, the court not only must arrive at a conclusion that a case of trial has been made out but also that other factors requisite for grant of injunction exist. U/s. 94 CPC r/w. Order 39 of the CPC, jurisdiction of the Court to interfere with an order of interlocutory or temporary injunction is purely equitable and, therefore, the Court, on being approached, will, apart from other considerations, also look to the conduct of the party invoking the jurisdiction of the Court, and may refuse to interfere unless his conduct was free from blame. Since the relief is wholly equitable in nature, the party invoking the jurisdiction of the Court has to show that he himself was not at

fault and that he himself was not responsible for bringing about the state of things complained of and that he was not unfair or inequitable in his dealings with the party against whom he is seeking relief. His conduct should be fair and honest. These considerations will arise not only in respect of the person who seeks an order of injunction u/o 39, r. 1 or 2 of the CPC, but also in respect of the party approaching the Court for vacating the ad-interim or temporary injunction order already granted in the pending suit or proceedings. See---

1. **K.R. Jadeja vs. Maruti Corporation, 2009 (107) RD 265 (SC)**
2. **M. Gurudas vs. Rasaranjan, 2006 (65) ALR 331 (SC)**
3. **Transmission Corp. of A.P. Ltd. vs. Lanco Kondapalli Power (Pvt.) Ltd., (2006) 1 SCC 540**
4. **M/s. Gujarat Bottling Co. Ltd. vs. Coca Cola Company, AIR 1995 SC 2372**
5. **U.P. Avas Evam Vikash Parishad vs. N.V. Rajgopalan Acharya, AIR 1989 All 125 (D.B.)**

2. **Meaning of---** (A) **Prima facie case**
(B) **Irreparable injury**
(C) **Balance of convenience**

(A) **Prima facie case** is not to be confused with **prima facie title** which has to be established on evidence at the trial. Prima facie case is a substantial question raised, bonafide, which needs investigation and a decision on merits. Satisfaction of court that there is a prima facie case by itself is not sufficient to grant injunction. The court has to further satisfy that non-interference by court would result in **“irreparable injury”** to the party seeking relief and that there is **no other remedy** available to the party except one to grant injunction and he needs protection from the consequences of apprehended injury or dispossession. “Irreparable injury” however does not mean that there must be no physical possibility of repairing the injury but means only that the injury must be material one, namely one **that cannot be adequately compensated by way of damages**. The third condition is that the **“balance of convenience”** must be in favour of grant of interim injunction. The court while granting or refusing to grant injunction **should exercise sound judicial discretion** to find the amount of substantial mischief of injury which is likely to be caused to the parties if the injunction is refused and compare it with that it is likely to be caused to the other side if the injunction is granted. If on weighing competing possibilities or probabilities of likelihood of injury, the court considers that pending the suit, the subject matter should be maintained in **status quo**, an injunction would be issued. See---

1. **Dalpat Kumar vs. Prahlad Singh, AIR 1993 SC 276**
2. **U.P. Avas Evam Vikash Parishad vs. N.V. Rajgopalan Acharya, AIR 1989 All 125 (D.B.)**
3. **Maria Margarida Sequeira Fernandes Vs. Erasmo Jack De Sequeira, (2012) 5 SCC 370**

Note: It was a suit for specific performance of agreement for sale which was decreed by the trial court and sale deed was also executed by the executing court. Thereafter a separate suit to set aside that decree was filed and during the pendency of the suit, the High Court granted temporary injunction which was set aside by the Supreme Court by holding that the High Court was not right in granting the temporary injunction.

(B) The principle upon which injunction is granted is well settled. Party to the litigation, who seeks an injunction, must satisfy the court that there is a serious question to be tried at the hearing of the suit and every probability tilts in his favour for the relief sought for i.e. prima facie is in his favour. However, at this juncture it is made clear that **prima facie case may not be confused in prima facie success, but simply if there is serious question to be tried the test of prima facie is satisfied and further court's interference is necessary without which a right accrued in favour of the party concerned, cannot be protected** from species of injury which is known as irreparable injury and comparative mischief which is likely to cause in the absence of the injunction will be greater and not compensiable, thus the balance of convenience also tilts in his favour, Broadly these principles apply where injunction is sought by the party. See--- **Smt. Shefali Roy vs. Hero Jaswant Dass, AIR 1992 All 254 (D.B.)**

(C) **Mini trial of suit not permissible u/o 39, rule 1 & 2 CPC** : Court should not proceed for mini trial of the suit while granting or refusing an application u/o 39, rule 1 & 2 CPC. See : **Amir Alam Khan Vs Lucknow Development Authority, Lucknow, 2011 (29) LCD 1695 (All---DB)(LB)**

3. **Pre-conditions for grant of interim injunction u/s. 94 CPC r/w. Order 39, rule 1 & 2 CPC**

(A) Before obtaining interim injunction u/s. 94 CPC r/w. Order 39, rule 1 and 2 CPC, the party must show following pre-conditions in his favour---

- (i) Prima facie case
- (ii) Irreparable injury
- (iii) Balance of convenience
- (iv) Bonafide conduct,

See : **Neon Laboratories Ltd. Vs. Medical Technologies Ltd.,**
(2016) 2 SCC 672 (para 6).

(B) No interim injunction in the absence of prima facie case even if the other requirements are fulfilled--- Interim injunction u/o. 39, rule 1 & 2 CPC cannot be granted when the party is unable to prove prima facie case in his favour even if such party makes out a case of balance of convenience and irreparable injury. See--- **Kashi Math Samsthan vs. Shrimad Sudhindra Thirtha Swamy, AIR 2010 SC 296**

(C) Merit not to be adjudicated at interim stage : At the interim stage of proceedings, issues touching upon merits of the case cannot be adjudicated . See : **Prasar Bharti Vs. Board of Control for Cricket in India, (2015) 6 SCC 614.**

(D) Party seeking interim injunction in property must show proprietary interest in subject matter of dispute : Ordinarily, a party seeking interim injunction under Order 39, rule 1 & 2 CPC must have proprietary interest in the subject matter of dispute. See : **Margaret Almeida Vs. Bombay Catholic Co-operative Society Limited, (2013) 6 SCC 538**

4. Sources of power of court to grant interim injunction

There are two sources of powers of court to grant interim injunction-----

(1) Sec. 94 CPC (2) Sec. 151 CPC.

CPC has been divided into sections and rules under various orders. Sections create jurisdiction of the court while rules indicate manner in which jurisdiction is to be exercised. Power to grant injunction u/s. 94 CPC can be exercised only if the circumstances under Order 39, Rule 1 & 2 CPC are existing. See--- **Vareed Jacob vs. Sosamma Geevarghese, (2004) 6 SCC 378**

5. Obtaining injunction by paying fraud or misleading the court

(Section 41 (I), S.R. Act, 1963 r/w. O. 39, r. 2, sub-rule 2, U.P. Amendment, Proviso, Clause "a")

(A) Equitable conduct of the party must for temporary injunction--- U/o 39 of the CPC, jurisdiction of the Court to interfere with an order of interlocutory or temporary injunction is purely equitable and, therefore, the Court, on being approached, will, apart from other considerations, also look to the conduct of the party invoking the jurisdiction of the Court, and may refuse to interfere unless his conduct was free from blame. Since the relief is wholly equitable in nature, the

party invoking the jurisdiction of the Court has to show that he himself was not at fault and that he himself was not responsible for bringing about the state of things complained of and that he was not unfair or inequitable in his dealings with the party against whom he was seeking relief. His conduct should be fair and honest. These considerations will arise not only in respect of the person who seeks an order of injunction u/o 39, r. 1 or 2 of the CPC, but also in respect of the party approaching the Court for vacating the ad-interim or temporary injunction order already granted in the pending suit or proceedings. See--- **M/s. Gujarat Bottling Co. Ltd. vs. Coca Cola Company, AIR 1995 SC 2372**

(B) Falsehoods etc.---In the case of falsehood and fraud by a party to a litigation, Court has inherent power to protect itself and further stop the perpetuation of fraud. Nicety of law and the Court's reception to it are for those who come clean. Such parties may seek redressal of their actionable claims and the academics of legal or statutory interpretations. Parties harbouring falsehoods and deceit are to be shown the door out of Court. This is for the protection of the Court. Otherwise, the people will be losing faith in public justice system when in the case of fraud the Courts will listen to judicial polemics. Thus, notwithstanding anything contained in Order 39, Rule 2 of the CPC as applicable in U.P., let no person indulge in falsehood and fraud and then say that a Court will not protect itself under its inherent powers by passing such orders as may be deemed necessary. See--- **Naresh Chandra vs. District Magistrate, Nainital, AIR 1990 All 188**

(C) Conduct of Plaintiff & Temporary Injunction---Equitable relief of Injunction cannot be granted to plaintiff guilty of inequitable conduct. **Note**— In this case, the plaintiff had abused process of law by instituting different cases at different fora to evade his eviction under orders from lower court to High Court and had ultimately filed an injunction suit against his eviction just to frustrate the eviction decree. See--- **Kauchusthabam Satyanarayana vs. Namuduri Atchutramayya, 2005 (2) AWC 1239 (SC).**

(D) In case of fraud, concealment of material facts or misrepresentation etc., temporary injunction is to be refused even if all the three ingredients are fulfilled--- No interim injunction can be granted in favour a party concealing from court some material facts, playing fraud and misrepresentations etc. even if all the three legally required conditions for grant of interim injunctions (prima facie case, balance of convenience & irreparable loss) are fulfilled and if already granted, the same should be vacated by the court. See---

1. **The National Textile Corporation U.P. Ltd. vs. Swadeshi Cotton Mills Ltd., 1987 ALJ 1266 (All—D.B.)**

2. **Shivnath vs. District Judge, Nainital, 1991 AWC 30 (All)**
3. **Naresh Chandra vs. D.M., Nainital, AIR 1990 All 188**

(E) Misleading the court--- Where the plaintiff in the suit for injunction against defendants restraining them from interfering with the construction of wall in a passage, obtained an ex-parte interim injunction wrongly by misleading the Court in as much as the Sale deed on the basis of which the plaintiff claimed ownership of the suit property was not placed before the Court and the defendants were not heard before passing the order of interim injunction, and after obtaining the order the plaintiff completed the construction of the wall and then applied for withdrawal of the suit and prayed for dismissal of injunction application as not pressed, the order passed by Court u/s. 151 CPC for demolition of wall would be justified even if Sec. 144 CPC is not applicable, Sec. 151 CPC is there to undo the wrong done by the Court on being satisfied that the order was passed on being misled by the party. See--- **Rakesh Singhal vs. Vth ADJ, Bulandshhar, AIR 1990 All 12**

(F) Delayed request for interim injunction--- It will be inequitable conduct on the part of the party who seeks the relief of interim injunction after much delay and the grant of the interim injunction would not be proper. Grant of injunction is an equitable relief. A person who had kept quiet for a long time and allowed an other person to deal with the property exclusively, ordinarily would not be entitled to an order of injunction. See—

1. **K.R. Jadeja vs. Maruti Corporation, 2009 (107) RD 265 (SC)**
2. **Sheoraj vs M/s Accord Infrastructure Pvt. Ltd., 2011 (2) ALJ 501(All)(DB)**

6. Object of granting interim injunction

(A) The object of the interlocutory injunction is, to protect the plaintiff against injury by violation of his right for which he could not be adequately compensated in damages recoverable in the action if the uncertainty were resolved in his favour at the trial. See--- **Zenit Mataplast P. Ltd. vs. State of Maharashtra, 2009(6) Supreme 584**

(B) Distinction between power of court to grant injunction u/s. 94 CPC r/w. O. 39, r. 1 & 2 CPC & u/s. 151 CPC--- CPC has been divided into sections and rules under various orders. Sections create jurisdiction of the court while rules indicate manner in which jurisdiction is to be exercised. Power to grant injunction u/s. 94 CPC can be exercised only if the circumstances under Order 39, Rule 1 & 2

CPC are existing. Even if in a given case, circumstances do not fall within the ambit of Order 39 CPC, the courts have inherent jurisdiction to issue temporary injunction u/s. 151 CPC if the court is of the opinion that interest of justice requires issue of such interim injunction. See--- **Vareed Jacob vs. Sosamma Geevarghese, (2004) 6 SCC 378**

7(A). Power of court to grant injunction u/s. 151 CPC

Even if in a given case, circumstances do not fall within the ambit of Order 39 CPC, the courts have inherent jurisdiction to issue temporary injunction u/s. 151 CPC if the court is of the opinion that interest of justice requires issue of such interim injunction. See---

1. **Vareed Jacob vs. Sosamma Geevarghese, (2004) 6 SCC 378**
2. **State of Maharashtra vs. Admane Anita Moti, AIR 1995 SC 350**
3. **Shiv Ram Singh vs. Smt. Mangara, 1988 ALJ 1516 (All)**
4. **Ram Chand & Sons Sugar Mills vs. Kanhyalal Bhargava, AIR 1966 SC 1899**
5. **Manohar Lal Chopra vs. Ram Bahadur Rao, AIR 1962 SC 527**

7(B). Power of court to grant injunction u/s 151 CPC

Once the Legislature prescribes the cases in which an order of temporary injunction is to be granted and the cases in which such an injunction cannot be granted, the Court should respect the legislative intent, as reflected by the statutory provisions. The legislative intent may be either express or may be clear by necessary implication. As long as the intention of the Legislature could be gathered from the provisions and it is clear, inherent power of Section 151 CPC should not be exercised, then to nullify or stultify such a provision. Grant of temporary injunction by court in exercise of its inherent powers u/s 151 CPC is permissible in cases which do not fall u/O 39, Rule 1 CPC. See--- **Smt. Shakunthamma & Others Vs. Smt. Kanthamma & Others, AIR 2015 Karnataka 13 (Full Bench).**

(B-1) As regards the exercise of inherent powers of the court u/s. 151 CPC for purposes of granting interim injunction or any other relief, the Supreme Court in the case of **State of U.P. vs. Roshan Singh, 2008 (71) ALR 1 (SC)**, has ruled as under----

- “(i) Inherent powers of the court u/s. 151 CPC are not to be used for the benefit of a party or litigant who has remedy under CPC similar in the position vis-à-vis other statute.
- (ii) Object of inherent powers u/s. 151 CPC is to supplement and not to replace the remedies provided for in the CPC. Sec. 151 CPC will not be available when there is alternative remedy.

- (iii) Sec. 151 CPC cannot be invoked when there is express provision under which relief can be claimed by the aggrieved party.
- (iv) Inherent powers of court u/s. 151 CPC are in addition to the powers specifically conferred on the court.”

(B-2) Writ Petition under Article 226 not to be entertained when alternative remedy by way of civil suit or proceeding under 145 CrPC is available: In the case noted below, a petition under Article 226 of the Constitution of India was filed before the High Court seeking relief of possession over the disputed flat. The Supreme Court held that remedy to the petitioner was available before the civil court in the form of a civil suit or before the criminal court u/s 145 CrPC and the extraordinary jurisdiction of High Court under Article 226 of the Constitution could not have been invoked by the petitioner. See: Roshina T. Vs. Abdul Azeez K.T., AIR 2019 SC 659.

(C) A Division Bench of the Allahabad High Court has held in the case of **Satya Prakash Tiwari vs. Civil Judge (J.D.), Etawah, 2006 (62) ALR 431 (All—D.B.)** that powers u/s. 151 CPC cannot be invoked to deal with an application for which there is a statutory provision and temporary injunction in that event can be granted u/o. 39, r. 1 & 2 CPC and not u/s. 151 CPC.

(D) **Interim injunction in representative suit** : Where interim relief in the form of interim injunction under Order 39, rule 1 & 2 CPC is likely to affect large number of persons but the suit was not filed in representative capacity, it has been held by the Supreme Court that there was need for plaintiffs to at least constitute simple majority of affected persons. See : **Margaret Almeida Vs. Bombay Catholic Co-operative Society Limited, (2013) 6 SCC 538**

8. Affidavit Sufficient For Grant Of Temporary Injunction

For temporary injunctions u/o. 39, r. 1 & 2 CPC, plaintiff can prove the three ingredients, i.e. (1) Prima facie case, (2) Balance of convenience, and (3) irreparable injury on affidavits. The power given to courts to act on affidavits is not subject to the provisions of Order 19, r. 1 & 2 CPC. See--- **Satya Prakash vs. Ist ADJ, Etawah, AIR 2002 All 198**

9. Ex-parte ad-interim injunction---when to be granted? (Sec. 94 r/w. Order 39, r. 3 CPC)

(A) Ex-parte injunction can be granted only under exceptional circumstances. The Supreme Court has enumerated following principles and factors which should weigh with the court for grant of ex-parte injunction -----

- (1) whether irreparable or serious mischief will ensue to the plaintiff;
- (2) whether the refusal of ex-parte injunction would involve greater injustice than the grant of it would involve;
- (3) the court will also consider the time at which the plaintiff first had notice of the act complained of so that the making of improper order against a party in his absence is prevented;
- (4) the court will consider whether the plaintiff had acquiesced for some time and in such circumstances it will not grant ex-parte injunction;
- (5) the court would expect a party applying for ex-parte injunction to show utmost good faith in making the application;
- (6) even if granted, the ex-parte injunction would be for a limited period of time;
- (7) general principles like prima facie case, balance of convenience and irreparable loss would also be considered by the court. See---

1. **Bombay Dyeing & Manufacturing Co. Ltd. vs. Bombay Environmental Action Group, (2005) 5 SCC 61**
2. **Morgan Stanley Mutual Fund vs. Kartickdas, (1994) 4 SCC 225**

(B) Duty of judicial officers while granting ex-parte ad interim injunction order : In order to grant or refuse injunction, the judicial officer or the Judge must carefully examine the entire pleadings and documents with utmost care and seriousness. The safe and better course is to give a short notice on the injunction application and pass an appropriate order after hearing both the sides. In case of grave urgency, if it becomes imperative to grant an ex-parte ad interim injunction, it should be granted for a specified period, such as, for two weeks. In those cases, the plaintiff will have no inherent interest in delaying disposal of injunction application after obtaining an ex-parte ad interim injunction.

(C) Ex-parte injunction cannot be granted unless Rule 3 of order 39 CPC is complied with. It is of utmost importance to note that an ex-parte order of injunction is an exception, the general rule being that order be passed only after hearing both the parties. It is only in rare cases where the court finds that object of granting injunction would be defeated by the delay, the court can issue an injunction ex-parte but that too only after **recording reasons** therefor. See---

1. **Shiv Kumar Chaddha vs. Municipal Corpn. of Delhi, (1993) 3 SCC 161**
2. **Road Flying Carrier vs. The General Electric Company of India Ltd., AIR 1990 All 134 (D.B.)**

10. Status Quo--- legality of such interim injunctions

Issuing direction to maintain status quo in relation to the disputed property is a well-known method and the usual order made during the pendency of a dispute for preserving the property and protecting the interest of the true owner till the adjudication is made. A change in the existing situation is fraught with the danger of prejudicing the rights of the true owner, yet to be determined as the maintenance of status quo during the pendency of the suit is necessary so that the disputed property can be handed over to its true owner found entitled to it after decision of the suit. See--- **M. Ismail Faruqui vs. Union of India, AIR 1995 SC 605 (Five Judge Constitution Bench)**—Known as Ram Janma Bhumi & Babri Masjid dispute at Ayodhya.

11. Effect of non-compliance with the proviso to Order 39, Rule 3 CPC

(A) If a party, in whose favour an order was passed ex-parte, fails to comply with the duties which he has to perform as required by the proviso to Rule 3 of Order 39 CPC, he must take the risk. Non-compliance with such requisites on his part cannot be allowed to go without any consequence and to enable him to have only the advantage of it. The consequence of the party (who secured the order) for not complying with the duties he is required to perform is that he cannot be allowed to take advantage of such order if the order is not obeyed by the other party. A disobedient beneficiary of an order cannot be heard to complain against any disobedience alleged against another party. See---

1. **A. Venkatasubbiah Naidu vs. S. Chellappan, AIR 2000 SC 3032**
2. **Road Flying Carrier vs. The General Electric Company of India Ltd., AIR 1990 All 134 (D.B.)**

(B) If the ex-parte ad-interim injunction granted by court is subsequently confirmed after hearing both parties, the question of non-compliance by the plaintiff with the provisions of proviso to Rule 3 of Order 39 CPC loses its significance. Otherwise for non-compliance with the aforesaid provisions, the court may proceed u/o. 39, r. 4 CPC to discharge, vary or set aside the ex-parte ad-interim injunction granted by it. See--- **U.P. Pasi Jagriti Mandal, Lucknow vs. Devi Dayal Chauhan, 1997 (1) JCLR 5 (All—L.B.)**

12. Recording of reasons for grant of temporary injunction

Recording of reasons is must for grant of ex-parte temporary injunction.

See---

1. **Shiv Kumar Chaddha vs. Municipal Corpn. of Delhi,(1993) 3 SCC 161**
2. **Road Flying Carrier vs. The General Electric Company of India Ltd., AIR 1990 All 134 (D.B.)**

13. Interim injunction beyond the scope & parties to the suit

(A) An interim or interlocutory order ought not to be made beyond the scope of the suit nor against the parties who are not before the court. See---

1. **Ritona Consultancy Pvt. Ltd. vs. Lohia Jute Press, (2001) 3 SCC 68**
2. **Sree Jain Swetambar Terapanthi vs. Phundan Singh, (1999) 2 SCC 377**

(B) **Relief larger than claimed not to be granted**--- A relief larger than the one claimed by plaintiff in the suit cannot be granted by court. See---

- (i) **Meena Chaudhary Vs. Commissioner of Delhi Police, (2015) 2 SCC 156.**
- (ii) **Rajendra Tewary vs. Basudeo Prasad, 2002 (46) ALR 222 (SC)**

(C) **T.I. not to be granted beyond the terms of the prayer for permanent injunction**--- Temporary injunction u/o 39, r. 1 & 2 CPC can be granted on the term of the prayer for permanent injunction in the suit and not on different terms. If the plaintiff did not pray for permanent injunction in the plaint, he cannot seek temporary injunction on the same terms by means of application. See---

- (i) **Meena Chaudhary Vs. Commissioner of Delhi Police, (2015) 2 SCC 156.**
- (ii) **V.D. Tripathi vs. Vijai Shanker Dwivedi, AIR 1976 All 97**

14. Interim relief not to be granted if final relief in the same terms cannot be granted

(Sec. 38 & 41 of the S.R. Act, 1963 r/w. Or. 39, rule 2, sub-rule 2, U.P. Amendment, proviso, clause (a) CPC)

If the relief of permanent injunction claimed in the plaint is barred by Sec. 38 or 41 of the Specific Relief Act, 1963, no temporary injunction of the same nature or term can be granted by the court in view of the bar of law contained under Or. 39, rule 2, sub-rule 2, U.P. Amendment, proviso, clause (a) CPC. Even by exercising inherent power of the court u/s. 151 CPC, no interim relief or interim

injunction can be granted by court if the final relief in the same terms cannot be granted. See--- **Dilip Kumar vs. Spl. Judge, Barabanki, 1992 (10) LCD 13 (All—L.B.)**

15. Interim injunction or stay against Govt. regarding---

(A) Public Policy

(B) Economic Policy

(C) Public schemes

(D) Public Projects etc.

(E) Electricity Sub-station on Private Land

No ex-parte relief by way of injunction or stay especially with respect to public projects, public schemes or economic policies or schemes of Govt. should be granted unless there is likelihood of irreparable damage. See--- **BALCO employees Union vs. Union of India, AIR 2002 SC 350**

(E) No interim injunction even when a public Electricity Sub-station being constructed on private land: In the present case, the plaintiffs had claimed temporary injunction to restrain the Electricity Board from interfering with the possession of the plaintiffs over the land in suit. In earlier round of litigation, the predecessor in title of the plaintiffs had failed to establish her title which had attained finality. The plaintiffs had failed to prima-facie establish possession over the suit land. The Electricity Sub-station was fully constructed on the suit property to provide electricity to the population of one lakh. Balance of convenience was in favour of the defendant Electricity Board. The plaintiffs were entitled to compensation u/s 67(3) of the Electricity Act, 2003 in the event they proved their title and possession. No hardship or prejudice was likely to be caused to the plaintiffs. The Supreme Court held that the plaintiffs were not entitled to temporary injunction under

Order 39, Rules 1 & 2 CPC. See: **State of Jharkhand Vs. Surendra Kumar Srivastava, AIR 2019 SC 231.**

16(A). Interim Mandatory Injunction

(Sec. 39, Specific Relief Act, 1963 r/w. Sec. 94 & Order 39, Rule 1 & 2 CPC)

An interim mandatory injunction which virtually grants final relief asked for in the plaint cannot be granted at the interim stage. See---

1. **State of U.P. vs. Ram Sukhi Debi, 2005 (25) AIC 328 (SC)**
2. **Bombay Dyeing & Manufacturing Co. Ltd. vs. Bombay Environmental Action Group, (2005) 5 SCC 61**
3. **Dattaraj vs. State of Maharashtra, (2005) 1 SCC 590**
4. **B. Singh vs. Union of India, (2004) 3 SCC 363**
5. **Deoraj vs. State of Maharashtra, (2004) 4 SCC 697**
6. **Union of India vs. Modilutf Ltd., (2003) 6 SCC 65**
7. **State of U.P. vs. Vishweshar, 1995 (suppl.) 3 SCC 590**
8. **Bharatbhushan vs. Abdul Khalik, 1995 (suppl.) 2 SCC 593**
9. **Shiv Shankar vs. Board of Directors, 1995 (suppl.) 2 SCC 726**
10. **Commissioner vs. Ashok Kumar Kohli, JT 1995 (8) SC 403**
11. **Morgan Stanley Mutual Fund vs. Kartickdas, (1994) 4 SCC 225**
12. **Assistant Collector vs. Dunlop India Ltd., 1985 (1) SCC 260**

16(B). Interim Mandatory Injunction

The interim relief granted to the plaintiffs by the appellate Bench of the High Court in the present case is a mandatory direction to hand over possession to the plaintiffs. Grant of mandatory interim relief requires the highest degree of satisfaction of the court; much higher than a case involving grant of prohibitory injunction. It is, indeed, a rare power, the governing principles whereof would hardly require a reiteration inasmuch as the same which had been evolved by the Supreme Court in *Borab Cawasji Warden, (1990) 2 SCC 117*, quoted herein, has come to be firmly embedded in our jurisprudence. See : **Mohd. Mehtab Khan & Others Vs Khushnuma Ibrahim Khan & Others, (2013) 9 SCC 221.**

17. Interim order granting final relief--- not to be passed

Interim relief or interim order which virtually grants final relief in the case, cannot be granted. See---

1. **Indore Development Authority vs. Mangal Amusement Pvt. Ltd., AIR 2011 SC 199.**
2. **Union of India vs. Modilutf Ltd., (2003) 6 SCC 65.**

**18(A).Interim injunction in favour of defendant in a suit
filed by plaintiff**

An interim injunction in favour of defendant in a suit filed by plaintiff can be granted by court even u/s. 151 CPC and the court is not bound in such cases by the limitations u/o. 39, r. 1 & 2 CPC. However such interim injunctions should be granted in very rare and exceptional circumstances. See--- **Shiv Ram Singh vs. Smt. Mangara, 1988 ALJ 1516 (All).**

**18(B).Interim injunction in favour of defendant in a suit
filed by plaintiff**

Thus in a suit filed by the plaintiff, it is open to the defendant to file an application only u/O 39, Rule 1(a) of CPC seeking temporary injunction and the Court on being satisfied that a case is made out for grant of such injunction, can grant the same in its discretion. See--- **Smt. Shakunthamma & Others Vs. Smt. Kanthamma & Others, AIR 2015 Karnataka 13 (Full Bench).**

18(C). Plaintiff alone, and not the defendant, can maintain application for T.I. under clauses (b) & (c) of o. 39, r. 1 CPC

The relief under Order 39, Rule 1(b) and (c) is available only to the plaintiff and the defendant cannot maintain an application for the said reliefs in a suit filed by the plaintiff, irrespective of the fact that his right to such relief arises either from the same cause of action or a cause of action that arises subsequent to filing

of the suit. However, it is open to the defendant to maintain a separate suit against the plaintiff and seek relief provided under Order 39, Rule 1(b) and (c) of the Code. See--- **Smt. Shakunthamma & Others Vs. Smt. Kanthamma & Others, AIR 2015 Karnataka 13 (Full Bench).**

19. Consequences of non-disposal of injunction application on merits within 30 days from the date of grant of ex-parte ad-interim injunction

(Order 39, Rule 3-A CPC has been omitted in the State of U.P. vide Allahabad High Court's Notification No. 103/IV-h-360, dated 3.2.1981)

When an ex-parte temporary injunction is granted by a judicial officer u/o. 39, r. 3 CPC but he fails to dispose of the temporary injunction application on merits within 30 days from the date of grant of ex-parte temporary injunction, the aggrieved party shall be entitled to right of appeal notwithstanding the pendency of the application for grant or vacation of the temporary injunction, against the order remaining in force. The appellate court shall, then, be obliged to take note of the omission of the subordinate court in complying with the provisions of Order 39, Rule 3-A CPC. In appropriate cases, the appellate court, apart from granting or vacating or modifying the order of such injunction, may suggest suitable action against the erring judicial officer, including recommendation to take steps for making adverse entry in his ACR. Failure to decide the injunction application or to vacate the ex-parte temporary injunction shall, for the purpose of the appeal, be deemed to be the final order passed on the application for temporary injunction on the date of expiry of 30 days mentioned in Rule 3-A. See--**A. Venkatasubbiah Naidu vs. S. Chellappan, AIR 2000 SC 3032**

20. Interim injunction application and objections regarding---- (A) Maintainability of suit

- (B) Jurisdiction
- (C) Valuation
- (D) Court Fee

- (E) **Limitation & T.I.**
- (F) **Resjudicata & T.I.**
- (G) **Non impleadment of party**

(A) **Objection as to jurisdiction**--- Objection as to jurisdiction to be decided by the court as a preliminary issue would not prevent the court from passing interim orders while the decision on question of jurisdiction is pending if called for in the facts and circumstances of the case. Any violation of such interim order would be punishable u/o 39, r. 2-A CPC even if later on the court holds that it had no jurisdiction to entertain the suit. See--- **Tayabhai M. Bagasarwalla vs. Hind Rubber Industries Pvt. Ltd., (1997) 3 SCC 443**

(B) **Valuation & C.F.**--- When there is challenge to jurisdiction, valuation or sufficiency of court fee or maintainability of suit, the court is to first decide these issues and then to decide the application for temporary injunction and other matters. See--- **Arun Kumar Tiwari vs. Smt. Deepa Sharma, 2006 (1) ARC 717**

(All—D.B.)

(C) **Non-impleadment of party & T.I.**--- A disputant is entitled to an interim order, provided he is a party thereto. If for one reason or the other, he cannot be impleaded as a party to the proceeding, the court would have no jurisdiction to pass any interim order in his favour. If the impleadment application is not maintainable, it is required to be dismissed in limine. It cannot be entertained only for pressing an interim order. Law does not contemplate exercise of such a jurisdiction by a court of law. Any such order passed is coram non judice. See--- **Shyamali Das vs. Illa Chowdhary, (2006) 12 SCC 300**

(D) **Jurisdiction/ Maintainability/ Limitation/ Valuation/ Court Fee/ Resjudicata & T.I.**--- It is settled law that an issue concerning resjudicata is an issue of law and therefore there is no impediment in treating and deciding such an issue as a preliminary issue. Such like issues can be treated and decided as issues of law u/o. 14, rule 2(2) CPC. Similarly, the other issues concerning limitation, maintainability, court fee can always be treated as preliminary issues as no detailed

evidence is required to be led. Evidence of a formal nature even with regard to a preliminary issue has to be led because these issues would either create a bar in accordance with law in force or they are jurisdictional issues. See---

1. **Hari Das vs. Usha Rani Banik, (2006) 4 SCC 78**
2. **Pandurang Dhoni Chougule vs. Maruti Hari Jadhav, AIR 1966 SC 153 (Five Judge Bench)= (1966) 1 SCR 102.**

21. Sec. 38 & 41 of Specific Relief Act, 1963 & ad-interim injunction

(A) For grant or refusal of ad-interim injunction, court has to take into consideration the provisions of Sec. 38 and 41 of the Specific Relief Act, 1963 r/w. Order 39, Rule 2, sub-rule (2), clause (a) to proviso thereto as added in U.P. w.e.f. 1.1.1977. See---

1. **M/s. Bagla Advertising Pvt. Ltd. vs. U.P. SIDC Corp. Ltd., 2007 (67) ALR 334 (All)(D.B.)**
2. **Dalpat Kumar vs. Prahlad Singh, 1992 (1) CCC 73 (SC)**
3. **Shiv Sharan Goel vs. M/s. Kedarnath, Omprakash, 1989 (1) ARC 351**
4. **Municipal Corporation Delhi vs. Suresh Chandra Jaipuria, AIR 1976 SC 2621**

(B) **Licence By Municipal Board & Injunction** ---- No injunction regarding cancellation of licence granted by municipal board can be granted by civil court as Sec. 61 of the U.P. Municipalities Act, 1916 provides for complete mechanism for redressal of such disputes and Sec. 41(h) of the S.R. Act, 1963 bars the jurisdiction of civil courts. See--- **Chhedilal vs. Rajaram, AIR 2008 (NOC) 334 (All)**

22. Revival of Temporary Injunction on Restoration of Suit

(A) **Revival of Temporary Injunction on Restoration of Suit**--- Upon restoration of suit which had been dismissed for default, the injunction granted earlier stands automatically revived. See...

1. **Ishrat Jahan vs. V ADJ, Hardoi, 2005 (2) AWC 1762 (All –LB)**
2. **Vareed Jacob vs. Sosamma Geevarghese, (2004) 6 SCC 378**

- (B) **Restoration of Writ Petition and revival of interim order passed therein**
 : Relying upon the case of Vareed Jacob vs. Sosamma Geevarghese, (2004) 6 SCC 378, the Lucknow Bench of the Hon'ble Allahabad High Court has held as under
- "This Court has taken note of the fact that the writ petition was dismissed in default on 4.02.2004 and within four days i.e. on 08.02.2004, an application for restoration was submitted by the learned Counsel for the petitioner No. 1 which remained pending for about two years and ultimately on 27.09.2006, the said restoration application was allowed and the writ petition was restored to its original number. The writ petition was restored in toto. Applying the principle of law laid down by Hon'ble the Supreme Court of India (Three Judges Bench) in the case of Vareed Jacob (supra), this Court is also of the view that after restoration of the writ petition, the interim order granted by a Division Bench of this Court on 30.09.1985 has become operative and the petitioner ought to have been allowed to continue as Principal of the Institution immediately after 27.09.2006".(Para 27). Kindly see... Mrs. Saroj Chaudhary Vs. State of UP, 2007 (25) LCD 765 (Lucknow Bench).*
- (C) **Temporary injunction not to be granted unless the suit is restored---**
 Where the suit wherein temporary injunction was granted, was dismissed in default and during the pendency of proceedings of the restoration application, an application for grant of temporary injunction was made, it has been held by the Allahabad High Court that no temporary injunction can be granted unless the suit is restored as the temporary injunction can be issued only in suit and not after the disposal of the suit. See---
1. Jagdhari vs. Vth ADJ, Azamgarh, 1992 AWC 1152 (All)
 2. Mohammad Ibrahim Khan vs. Pateshari Prasad Singh, AIR 1960 All 252 (D.B.)
- (D) **Writ petition under Article 227 against refusal of interim injunction maintainable:** A writ petition under Article 227 of the Constitution of India against an order passed by the Civil Court refusing to grant interim injunction under Order 39, Rules 1 & 2 CPC is maintainable. See: **State of Jharkhand Vs. Surendra Kumar Srivastava, AIR 2019 SC 231.**
- (E) **Writ Petition under Article 226 not to be entertained when alternative remedy by way of civil suit or proceeding under 145 CrPC is available:**

In the case noted below, a petition under Article 226 of the Constitution of India was filed before the High Court seeking relief of possession over the disputed flat. The Supreme Court held that remedy to the petitioner was available before the civil court in the form of a civil suit or before the criminal court u/s 145 CrPC and the extraordinary jurisdiction of High Court under Article 226 of the Constitution could not have been invoked by the petitioner. See: Roshina T. Vs. Abdul Azeez K.T., AIR 2019 SC 659.

23. Declaratory Suit & Interim Injunction

(A) In a suit for mere declaration, no ad-interim injunction can be granted. See---
- **Mohammad Ibrahim Khan vs. Pateshwari Prasad Singh, AIR 1960 Allahabad 252 (D.B.)**

(B) In the case noted below, the Supreme Court has held that in a suit for declaration of title simpliciter, the court has power under Order 39, Rules 1 and 2 CPC or even in Section 151 CPC to grant ad-interim injunction pending suit. See--

(i) Ramji Rai Vs. Jagdish Mallah, AIR 2007 SC 900

(ii) Smt. Rajnibai vs. Smt. Kamla Devi, 1996 All. CJ. 225 (SC)

(C) A suit for decree of perpetual injunction restraining the defendant from interfering with the possession of plaintiff without seeking relief of declaration of title is maintainable and interim injunction can be granted in such suits. See---
Corporation of City of Bangalore vs. M. Papaiah, AIR 1989 SC 1809

(D) Declaration of title alongwith injunction when necessary?---In a suit for injunction, claiming the relief of declaration of title when or when not would be necessary, has been clarified by the Supreme Court (in the case noted below) as under---

- a. Where a cloud is raised over plaintiff's title and he does not have possession, a suit for declaration and possession, with or without a consequential injunction, is the remedy. Where the plaintiff's title is not in dispute or under a cloud, but he is out of possession, he has to sue for possession with a consequential injunction. Where there is merely an interference with plaintiff's lawful possession or threat of dispossession, it is sufficient to sue for an injunction simpliciter.
- b. As a suit for injunction simpliciter is concerned only with possession normally the issue of title will not be directly and substantially in issue. The prayer for injunction will be decided with reference to the finding on possession. But in cases where de jure possession has to be established on the basis of title to the property, as in the case of vacant sites, the issue of title may directly and substantially arise for consideration, as without a finding thereon, it will not be possible to decide the issue of possession.

- c. But a finding on title cannot be recorded in a suit for injunction, unless there are necessary pleadings and appropriate issue regarding title [either specific or implied as noticed in *Annaimuthu Thevar (Supra)*]. Where the averments regarding title are absent in a plaint and where there is no issue relating to title, the court will not investigate or examine or render a finding on a question of title in a suit for injunction. Even where there are necessary pleadings and issue, if the matter involves complicated questions of fact and law relating to title, the court will relegate the parties to the remedy by way of comprehensive suit for declaration of title, instead of deciding the issue in a suit for mere injunction.
- d. Where there are necessary pleadings regarding title, and appropriate issue relating to title on which parties lead evidence, if the matter involved is simple and straight forward the court may decide upon the issue regarding title, even in a suit for injunction. But such cases, are the exception to the normal rule that question of title will not be decided in suits for injunction. But persons having clear title and possession suing for injunction, should not be driven to the costlier and more cumbersome remedy of a suit for declaration, merely because some meddler vexatious or wrongfully makes a claim or tries to encroach upon his property. The Court should use its discretion carefully to identify cases where it will enquire into title and cases where it will refer plaintiff to a more comprehensive declaratory suit, depending upon the facts of the case. See--- **Anathula Sudhakar Vs. P. Buchi Reddy, 2008(2) AWC 1768 (SC)**

24(A). Natural resources like forest, tanks, ponds, hillocks and mountains etc. must be protected against any sort of construction activity or encroachment or allotment etc.

Forests, tanks, ponds, hillocks and mountains etc., held, are nature's bounty. They help maintain the delicate ecological balance and need to be protected for that reason. The High Court proceeded to hold that considering the report of the SDO the area of 10 biswas only could be allotted and the remaining five biswas of land which have still the character of a pond, could not be allotted. It is difficult to sustain the impugned order of the High Court. There is a concurrent finding that a pond exists and the area covered by it varies in the rainy season. In such a case no part of it could have been allotted to anybody for the purpose of house building or any allied purposes. The material resources of the community like forests, tanks, ponds, hillock, mountain etc. are nature's bounty. They maintain delicate ecological balance.

They need to be protected for a proper and healthy environment which enables people to enjoy a quality life which is the essence of the guaranteed right under Article 21 of the Constitution. The government, including the Revenue Authorities i.e. Respondents 11 to 13, having noticed that a pond is falling in disuse, should have bestowed their attention on developing the same which would, on one hand, have prevented ecological disaster and on the other provided better environment for the benefit of the public at large. Such vigil is the best protection against knavish attempts to seek allotment of non-abadi sites. Natural resources, Conservation of--Water bodies/resources--Artificial tanks--Preservation of--Right to--Entitlement to--Held, though natural water storage resources must be protected and restored if fallen in disuse, this principle cannot be applied in relation to artificial tanks--Tank in question not a natural one--Only rain water could be collected in it--It was in a dilapidated condition for a long time and had been used as a dumping yard and sewage collection pond--No shortage of water in village where said tank existed--Held, it was not a case where resurrection of said tank should be directed--However, direction made to State and Gram Panchayat to see that other tanks in or around the village were properly maintained, there was no water shortage and ecology was preserved. See :

1. **Hinch Lal Tiwari Vs. Kamla Devi & Others, (2001) 6 SCC 496**
2. **Susetha Vs. State of T.N. & Others, (2006) 6 SCC 543**
3. **Intellectuals Forum Vs. State of A.P., (2006) 3 SCC 549**
4. **Animal and Environment Legal Defence Fund Vs. Union of India, AIR 1997 SC 1071=(1997) 3 SCC 549**
5. **M.C. Mehta (Badkhal and Surajkund Lakes Matter) Vs. Union of India, (1997) 3 SCC 715.**
6. **People United for Better Living in Calcutta Vs. State of W.B., AIR 1993 Cal 215**
7. **T.N. Godavarman Thirwulpad (99) Vs. Union of India, (2006) 5 SCC 47**
8. **L. Krishnan Vs. State of T.N., AIR 2005 Mad 311**
9. **Bombay Dyeing & Mfg. Co. Ltd (3) Vs. Bombay Environment Action Group, (2006) 3 SCC 434**

24(B). Public Parks/Play Grounds & Temporary Injunction Against Conversion Thereof

Interpreting the provisions of Sec. 13 of the **U.P. Urban Planning and Development Act, 1973** and Sec. 2 of the **U.P. Parks, Play Grounds and Open Spaces (Preservation and Regulation) Act, 1975**, it has been held that the development authority or even the State Government can not make any

constructions upon public parks, play grounds, stadium etc. and any such illegal constructions thereon can be ordered by the court to be dismantled. See---

1. **D.D. Vyas vs. Ghaziabad Development Authority, 1993 All. LJ 86 (All)(D.B.)**
2. **Bangalore Medical Trust vs. B.S. Mudappa, AIR 1991 SC 1902**
3. **Arun Kumar vs. Nagar Mahapalika, Allahabad, 1987 All. LJ 1038 (D.B.)**
4. **Ram Das Shenoy vs. Chief Officers, Town Municipal Council Udipi, AIR 1974 SC 2177**

25. Roadside Land & Injunction Against Removal Of Encroachment Thereon

No temporary injunction can be granted against encroachment against removal of encroachment by construction of temporary kiosks, Gumties and shops on roadside land. See---

1. **Town Area Committee, Naraini Banda vs. SSP Banda, 1998 (33) ALR 322 (All)(D.B.)**
2. **Raj Mani vs. State of U.P., 1995 (25) ALR 281 (All)(D.B.)**

26.A. Public Road & Injunction Against Removal Of Encroachment Thereon

No temporary injunction can be granted against removal of encroachment over public road as no person has right to occupy the public roads. Public road is meant for traffic only and for no other purpose. **Footpaths, pavements, and the land in between the public road and the houses alongside such public roads** are public property and not the land for private use. Existence of dwelling on pavements is unquestionably a source of nuisance and injunction cannot be granted against removal of such encroachments are nuisances. See---

1. **Durga Prasad vs. State of U.P., 1999 (36) ALR 64 (All)(D.B.)**
2. **Sushil Kumar Agarwal vs. Executive Engineer, PWD, Moradabad, 1998 (1) AWC 2(20) (NOC) (All)(D.B.)**
3. **Raj Mani vs. State of U.P., 1995 (25) ALR 281 (All)(D.B.)**
4. **Bala Din Yadav vs. Ramdulare, AIR 1990 All 19**

26.B : Observance of principles of natural justice not necessary if the encroachment on public land is of recent origin

The Constitution does not put an absolute embargo on the deprivation of life of personal liberty but such a deprivation must be according to the procedure in the given circumstances fair and reasonable. To become fair, just and reasonable, it would not be enough that the procedure prescribed in law is a formality. It must be

pragmatic and realistic one to meet the given fact-situation. No inflexible rule of hearing and due application of mind can be insisted upon in every or all cases. Each case depends upon its own backdrop. The removal of encroachment needs urgent action. But in this behalf what requires to be done by the competent authority is to ensure constant vigil on encroachment of the public places. Sooner the encroachment is removed when sighted, better would be the facilities or convenience for passing or re-passing of the pedestrians on the pavements or footpaths facilitating free flow of regulated traffic on the road or use of public places. On the contrary, the longer the delay, the greater will be the danger of permitting the encroachers claiming semblance of right to obstruct removal of the encroachment. If the encroachment is of a recent origin the need to follow the procedure of principle of natural justice could be obviated in that no one has a right to encroach upon the public property and claim the procedure of opportunity, of hearing which would be a tardious and time-consuming process leading to putting a premium for high-handed and unauthorised acts of encroachment and unlawful squatting. On the other hand, if the Municipal Corporation allows settlement of encroachers for a long time for reasons best known to them and reasons are not far to seek then necessarily a modicum of reasonable notice for removal, say two weeks or 10 days, and personal service on the encroachers or substituted service by fixing notice on the property is necessary. If the encroachment is not removed within the specified time, the competent authority would be at liberty to have it removed. That would meet the fairness of procedure and principle of giving opportunity to remove the encroachment voluntarily by the encroachers. On their resistance, necessarily appropriate and reasonable force can be used to have the encroachment removed. See : **Ahmedabad Municipal Corporation Vs. Nawab Khan Gulab Khan, AIR 1997 SC 152 (Para 9)**

27. License of Tehbazari on Roadsideland & Injunction against Removal thereof

No public authority has any right to issue license encouraging encroachment over public road or public land. License to conduct business on roadside land by payment of tehbazari does not confer any right upon the person paying tehbazari and doing business and temporary injunction can not be issued against the eviction of such persons. See

1. **Leela Dhar Joshi vs. State of U.P., 1998 ALJ 986 (All)(D.B.)**
2. **Sushil Kumar Agarwal vs. Executive Engineer, PWD, Moradabad, 1998 (1) AWC 2(20) (All) (NOC)**
3. **Raj Mani vs. State of U.P., 1995 (25) ALR 281 (All)(D.B.)**

28. Injunction By Inferior Court Restraining Judicial Proceeding

Before Superior Court

Court has no jurisdiction either u/s 41(b) of the Specific Relief Act, 1963 or u/s 151 CPC to grant temporary injunction restraining a person from instituting any proceeding which such person is otherwise entitled to institute in a court not subordinate to that from which the temporary injunction is sought. If final relief asked for cannot be granted, the temporary injunction can hardly be granted. See--
- **Cotton Corporation of India Ltd. vs. United Industrial Bank Ltd., AIR 1983 SC 1272.**

29. Educational Institutions & Temporary Injunctions

(A) Administration of Internal Affairs of University (Or. 39, rule 2, sub-rule 2, U.P. Amendment, proviso, clause (h) CPC)--- In a matter touching either the discipline or the administration of the internal affairs of a University, Courts should be most reluctant to interfere. They should refuse to grant an injunction unless a fairly good prima facie case is made out for interference with the internal affairs of educational institutions. See----**Varanaseya Sanskrit Vishwavidyalaya vs. Dr. Rajkishore Tripathi, AIR 1977 SC 615**

(B) Declaration of Result of Examination--- Direct intervention by court in the matter of university regarding declaration of result (LL.M. Examination) may lead to serious and disastrous results and repercussions. It would be proper to leave such matters to expert wisdom of the university authorities. See--- **Satpal Singh vs. Vice-Chancellor, Chaudhary Charan Singh University, Meerut, 1999 (1) AWC 2(17) (NOC) (All)**

(C) Revaluation of Answer Books:- In deciding the matters relating to orders passed by authorities of educational institutions, the Court should normally be very slow to pass orders in its jurisdiction because matters falling within the jurisdiction of educational authorities should normally be left to their decision and the Court should interfere with them only when it thinks it must do so in the interest of justice. See--- **Bhushan Uttam Khare vs. The Dean, B.J. Medical College, AIR 1992 SC 917**

(D) Issue of Admit Card or Appearance in Examination--- Court can not grant either interim prohibitory injunction against the authorities of the educational institution by restraining them from precluding the examinee from appearing in the examination nor can issue direction for issuing admit card. See---

Council for ISCE, New Delhi vs. District Judge, Agra, 1999 (35) ALR 221 (All)

(E) Admission in University (Or. 39, rule 2, sub-rule 2, U.P. Amendment, proviso, clause (h) CPC):- In view of the alternative remedy for agitating the matter before the Chancellor u/s. 68 of the U.P. Universities Act, 1973, injunction to grant admission can not be issued. See---**Satyaprakash Singh vs. Vice-Chancellor, Dr. Bhimrao Ambedkar Vishwavidyalaya, Agra, AIR 1998 All 66.**

30. No Injunction If The Disputed Property Is Not Identifiable

In view of the provisions under Order 7, Rule 3 CPC & Order 20 Rule 9 CPC, injunction cannot be granted if the disputed immovable property is not identifiable. See--- **Smt. Phoolmati Devi vs. ManikLal, 2005 (2) AWC 1823 (All—LB)**

31. Co-owners & Temporary Injunction

(A) Interference into Possession of co-sharer by co-sharer :---- Possession of one co-owner is always possession of all co-owners. If the disputed land is in joint possession of both parties or of all co-owners, no injunction can be granted against interference into possession of one co-owner by another co-owner. See---

1. **Bauram vs. Munni, 2008 (26) LCD 1220 (All)**
2. **Jahar Singh vs. Board of Revenue, 2005 (3) AWC 2877 (All)**
3. **Ajai Pal Singh vs. Shitla Bux Singh, 2005 (2) AWC 2001 (All--LB)**

(B) Transfer/Eviction/Construction/Demolition by co-owner:--- No injunction can be granted in favour of a co-sharer and against other co-sharer of an undivided property except---

- (a) against ouster or eviction of co-sharer by co-sharer,
- (b) against construction or demolition of undivided property,
- (c) against transfer or sale etc. of undivided immovable property. See---

1. **Deepali Bhattacharya vs. Ramji, 1990 (16) ALR 609 (All)**
2. **Vidyamati Mandir, Ghaziabad vs. Rajindra Nath, 1991 AWC 786 (All)(D.B.)**
3. **Gangubai Vs. Sita Ram, AIR 1983 SC 742**

(C) Transferee/co-sharer & TI---The suit property was purchased originally by the father and mother of the appellant/plaintiff. The superstructure on the land was constructed subsequent to the purchase. After the death of the mother

the appellant and his father as surviving joint tenants came to own the entire property. Under an agreement the appellant and his father, agreed to hold the same as tenants in common, each having an equal undivided share therein so that each can dispose of his undivided share in the property. Subsequently the appellant's father transferred his undivided half share in the suit property in favour of his another son. Thus the appellant and his brother came to hold an equal undivided one-half share each, as tenants in common in respect of the said property. Appellant's brother died intestate. His widow and his two minor sons sold their undivided one-half share in the said property to the vendee. The appellant filed a suit against vendors i.e. his brother's wife and her sons u/s 33 of TP Act. The suit was filed on the ground that the suit property was a dwelling house belonging to an undivided family, that there has not been any division of the said property at any time, that the appellant-plaintiff and his deceased brother during his lifetime were for convenience occupying different portions, the plaintiff occupying the first floor while the deceased brother was occupying the ground floor. After the death of brother his wife and sons continue to be in occupation of that portion which was in the occupation of brother. In the circumstances the vendee a stranger to the family has no right to have joint possession or common enjoyment of the property along with the plaintiff on the basis of the purchase of the undivided share. On this ground the appellant-plaintiff claimed the suit property he has also claimed the interim injunction restraining the vendors from parting with possession of the said property or any part thereof and/or inducting the vendee into the suit property or any part or portion thereof and a similar injunction restraining the vendee from entering into or taking possession and/or remaining in possession or enjoyment of the suit property or part thereof.

Held, that some notions of coparcenary property of a Hindu joint family which may not be quite accurate in considering Section 44 but what is relevant for the purpose of these proceedings was whether the selling house belonged to an undivided family. Even if the family is divided in status in the sense that they were holding the property as tenants in common but undivided qua the property that is the property had not been divided by metes and bounds it would be within the provisions of Section 44 of the Act. In the absence of a document evidencing partition or absence of a document evidencing partition of the suit house by metes and bounds and on the documentary evidence showing that the property was held by the appellant and his brother in equal undivided shares, it could be said that the plaintiff-appellant has shown a prima facie case that the

dwelling house belonged to an undivided family consisting of himself and his brother. Prima facie, therefore, the transfer by the vendee would come within the mischief of second paragraph of Sec.44.

While Sec. 44 does not give a transferee of a dwelling house belonging to an undivided family a right to joint possession and confer a corresponding right on the other members of the family to deny the right to joint possession to a stranger transferee, Sec.4 of the Partition Act gives a right to a member of the family who has not transferred his share to purchase the transferee's share on a value to be fixed in accordance with law when the transferee filed a suit for partition. Both these are valuable rights to the members of the undivided family whatever may be the object or purpose for which they were conferred on the right to joint possession is denied to a transferee in order to prevent a transferee who is an outsider from forcing his way into a dwelling house in which the other members of his transferee's family have a right to live. It is considered to be illegal and the only right of the stranger purchaser is to sue for partition. All these considerations would go only to show that denying an injunction against a transferee in such cases would prima facie cause irreparable injury to the other members of the family. See---**Dorab Cawasji Warden Vs. Coomi Sorab Warden, AIR 1990 SC 867.**

(D) Undivided share of co-parcener can be transferred but possession cannot be handed over to him---An undivided share of co-parcener can be transferred but possession cannot be handed over to vendee unless the property is partitioned by metes and bounds either by decree of court in partition suit or by settlement among co-sharers. See---

1. **Gajara Vishnu Gosavi Vs. Prakash Nanasahed Kamble, 2010 (2) SCCD 1105 (SC)**
2. **Ramdas Vs. Sitabai, JT 2009(8) SC 224**
3. **M.V.S. Manikayala Rao Vs Narasimhaswami, AIR 1966 SC 470**
4. **Sidheshwar Mukherjee Vs, Bhubneshwar Prasad Narain Sing, AIR 1953 SC 487**

(E) Interim injunction against transfer of immovable property can be granted : Interim injunction against transfer of immovable property can be granted by the court u/o 39, Rule 1 CPC. See : **Paras Nath Singh Vs Smt. Sirtaji Kunwari, 2012 (117) RD 143 (All-LB).**

(F) Where parties were co-sharers and no suit for partition must filed by the

plaintiff brother and the plaintiff was not exercising ownership rights on suit property, it has been held that the plaintiff is not entitled to the relief of injunction restraining defendant from raising construction on property. See... **Sheoraj Vs. M/s Accord Infrastructure Pvt. Ltd., 2011 (2) ALJ 501(All)(DB)**

32(A). Suit for declaration of matrimonial status maintainable before Family Court and not before Civil Court :

A suit for declaration regarding matrimonial status of a person as to be filed only before Family Court and not before Civil Court, be it affirmative declaration or negative declaration. It is wrong to say that negative declaration is not within the jurisdiction of the Family Court. See : **Balram Yadav Vs. Phulmaniya Yadav, AIR 2016 SC 2161.**

32(B). Second Marriage & Temporary Injunction

General law in CPC i.e. Order 39 Rule 1 & 2 CPC can be resorted to, even ex-parte, to restrain party from contracting or performing void Act, i.e., second marriage as the Hindu Marriage Act, 1955, though being a special statute, does not provide for grant of interim injunction. See--- **Km. Kirti Sharma vs. Civil Judge (Senior Division), Etah, 2005 (2) AWC 1741 (All).**

33. Child Marriage & Injunction by Judicial Magistrate under the Prohibition of Child Marriage Act, 2006

The Child Marriage Restraint Act, 1929 has been repealed since 11.1.2007 and the new Act "**The Prohibition of Child Marriage Act, 2006**" has come into force since 11.1.2007. Under the 2006 Act, "child" means a person who, if a male, has not completed 21 years of age and if a female, has not completed 18 years of age. U/s. 13 of The Prohibition of Child Marriage Act, 2006, a Judicial Magistrate or Metropolitan Magistrate, on an application of the Child Marriage Prohibition Officer or on receipt of an information through a complaint or otherwise from any person, is competent to issue injunction restraining the solemnization of child marriage. In case of any urgency, the Judicial Magistrate or Metropolitan Magistrate can issue an interim injunction without giving any notice to the opposite parties.

34(A). Agreement for Sale & Temporary Injunction

Where the purchaser/plaintiff had sought for injunction restraining the seller/defendant from alienating the property on the basis of agreement for sale, it has been held by the Allahabad High Court that injunction cannot be granted by court on the basis of agreement for sale in view of the provisions u/s 41(h) of the Specific Relief Act, 1963 read with Order 39 Rule 1 & 2 CPC as equally efficacious relief can be obtained in suit for specific performance of contract. See-- **Rajendra Kumar vs. Mahendra Kumar Mittal, AIR 1992 All 35 (D.B.)**

34(B). Agreement For Sale & Temporary Injunction To Protect Possession : Plaintiff claimed to be in possession of property in part performance of agreement to sell and claiming to have inducted tenant. Fact that tenant was in possession of suit property was undisputed. Interim Injunction by trial court was granted against defendant not to evict the plaintiff without following due process of law. Single Judge of the High Court reversed the order of the Trial Court on the ground that the plaintiff had filed suit for injunction without reserving his right to sue for relief of specific performance and, therefore, the plaintiff was not entitled to injunction. The Supreme Court held that the said view of the single judge of the High Court was improper and that of the Trial Court was the correct view. The order of the High Court was set aside. See : **Lakshmi Vs E. Jayaram, AIR 2013 SC 2939.**

35. (A) Possession & injunction

(B) Dispossession & Injunction

(A) Possession & injunction--- If the plaintiff is in possession of the suit property, he can, on the strength of his possession, resist interference from defendant who has no better title than himself and get injunction restraining the defendant from disturbing his possession. See--- **M. Kallappa Setty vs. M.V. Laxminarayana Rao, AIR 1972 SC 2299**

(B) A party in lawful possession of the property cannot be evicted without applying due process of law and such party is entitled to ad-interim injunction for protection of his lawful possession pending the civil suit. See--- **N. Umopathy vs. B.V. Muniyappa, AIR 1997 SC 2467**

(C) Dispossession & injunction--- Injunction cannot be granted against dispossession if the party seeking injunction is not found in possession. See---- **S.R. Batra Vs. Smt. Taruna Batra, 2007 (67) ALR 175 (SC).**

(D) Where the party was in possession of the immovable property on the basis of sale certificate issued by court in execution of decree, it has been held that the possession of the party cannot be said to be that of a trespasser and injunction cannot be granted against such party in possession. See--- **Anand Prasad Agarwalla vs. Tarkeshwar Prasad, AIR 2001 SC 2367**

(E) **Possession when must for injunction** ?--- As a suit for injunction simpliciter is concerned only with possession normally the issue of title will not be directly and substantially in issue. The prayer for injunction will be decided with reference to the finding on possession. But in cases where de jure possession has to be established on the basis of title to the property, as in the case of vacant sites, the issue of title may directly and substantially arise for consideration, as without a finding thereon, it will not be possible to decide the issue of possession. See--- **Anathula Sudhakar Vs. P. Buchi Reddy, 2008(2) AWC 1768 (SC)**

(F) **No injunction to watchman/care taker/agent/servant being persons in gratuitous possession/permissive possession against dispossession by owner of the premises** : Suit for injunction by watchman/care taker/agent/servant being persons in gratuitous possession/permissive possession against dispossession by owner of the premises is not maintainable. Such person holds property on behalf of principal (owner) and acquires no right or interest therein irrespective of long possession. Protection of courts can be granted or extended only to a person who has valid subsisting rent agreement, lease agreement or license agreement in his favour. See : **A. Shanmugam Vs. Ariya Kshatriya Rajakula Vamsathu Madalya Nandhavana Paripalanai Sangam, (2012) 6 SCC 430.**

36(A). Temporary injunction against non-party/stranger/third-party cannot be passed

It is well settled principle of law that either temporary or permanent injunction can be granted only against the parties to a suit. Interim injunction order under Order 39, rule 1 & 2 CPC cannot be passed against non-party/third-party/stranger. Further the consent order passed in terms of Order 39 CPC is only binding as against parties to the suit. See : **West Bengal Housing Board Vs. Pramila Sanfui, (2016) 1 SCC 743 (Three-Judge Bench).**

36(B). Effect of Non-Impleadment of Third Party Likely To Be Adversely Affected By Temporary Injunction

If a third party whose interest is to be adversely affected by the grant of injunction is not impleaded as party to suit or in the application for interim injunction, the application for interim injunction would not be maintainable and no injunction can be granted by court in the event of such non-impleadment. See--- **Mashkooor Hasan Khan Vs. Zila Parishad, Muzaffar Nagar, 1977 AWC 640 (All –D.B.)**

**37. Trespasser When Claiming Temporary
Injunction Against True Owner of Property**

It is settled law that injunction would not be issued against the true owner of the property. Issuance of injunction is absolutely a discretionary and equitable relief. Injunction is personal right u/s 41(J) of the Specific Relief Act, 1963, and for an injunction, plaintiff must have personal interest in the matter. Even assuming that the party had any possession over the property but if his possession is wholly unlawful possession of a trespasser then an injunction cannot be issued in favour of a trespasser or a person who gained unlawful possession as against the owner. Pretext of dispute of identify of the land should not be an excuse to claim injunction against true owner. See--- **Premji Ratansey vs. Union of India, 1994 III ADSC (C) 514 (SC).**

**38. Execution of Eviction Decree & Injunction Suit
By Third Party**

Separate injunction suit by third party claiming independent rights in decretal property is not maintainable in view of the bar contained u/s 47 CPC and Order 21, Rule 97 to 101 CPC. Such rights of third party can be decided in the case of execution of eviction decree itself and interim injunction cannot be granted. See---

1. **Raghunath Prasad vs. Jang Jeet Singh, AIR 2008 (NOC) 49 (All)**
2. **2003 AIR SCW 6458**
3. **Dhurandhar Prasad Singh vs. Jai Prakash University, AIR 2001 SC 2552**
4. **Silverline Forum Pvt. Ltd. vs. Rajiv Trust, AIR 1998 SC 1754**

39(A). Injunction against true owner of property

Where the party was put in lawful possession of the property by Tehsildar after partition, grant of interim injunction u/o 39, r. 1 & 2 CPC against such lawful

owner of the property has been held by the Supreme Court as improper. See---
Hanumanthappa vs. Muninarayanappa, 1997 (29) ALR 392 (SC)

39(B). Pendente lite transfers

Pendente lite transfers not to affect the rights of parties specially of plaintiff : It was brought to our notice that during the pendency of this litigation, some more transactions took place in relation to the suit house. Suffice it to say, such transactions are directly hit by the principle of lis pendens, as contemplated under Section 52 of the TP Act and, therefore, it is of no consequence so far as this litigation is concerned. In other words these transactions are not binding on the parties to the suit much less on the plaintiff. Such parties would be, therefore, at a liberty to now work out their inter se rights in accordance with law as a fall out of this judgment. See : **Nadiminti Suryanarayan Murthy (Dead) through Legal Representatives Vs. Kothurthi Krishna Bhaskara Rao & Others, (2017) 9 SCC 622 (para 32)**

40. Contract of Personal Service & Temporary Injunction

(A) An Employee of a private company cannot seek injunction under Order 39, Rule 1&2 CPC against his suspension as no civil suit is maintainable in relation to a contract of personal service not enforceable u/s. 14(b) of the Specific Relief Act, 1963. See--- **Mahesh Chand Tyagi vs. Auric Styles Private Ltd., 1997 (29) ALR 258 (All)**

(B) Tender & Temporary Injunction--- Where in a suit there were strong circumstances to show that the plaintiff was not competitively sound to make competitive offer, it has been held that it was a good ground for not awarding contract to him as no prima facie case was made out in favour of the plaintiff and court was justified in not granting injunction in favour of the plaintiff. See--- **Vikura Industries vs. G.M. Ordinance Factory, Kanpur, 2000 (3) AWC 2/31 (NOC) (All)**

41. Damage to crops---T.I. not to be granted

Where a brick kiln was situate near a mango grove, it has been held that if the damage likely from the smoke of the brick kiln was only to the crops and not to the trees or groves, the damages being ascertainable, interim injunction u/o 39, r. 1

& 2 or u/s. 151 CPC cannot be granted against running of the brick kiln. See—**Subhash Satya vs. Ram Narain, AIR 1994 All 120 (LB)**

**42. Alteration/damage to building by
tenant & injunction**

If the tenant causes any damage, alters materially, demolishes or destroys any portion of the tenement, landlord cannot seek injunction against the tenant as the landlord has got an alternative remedy against the tenant u/s. 41(h) of the Specific Relief Act, 1963 r/w Order 39, r. 2, sub-rule 2, U.P. Amendment, proviso, clause (a) CPC for the eviction of the tenant on aforesaid grounds. See--- **Man Singh vs. Smt. Ganga Devi, 1982 All.L.J. 634 (All)**

43. Trademark & injunction

(A) In case of use of a trade-name with deceptive similarity under the provisions of Trade Marks Act, 1999 if once a case of passing off is made out, the general practice to grant a prompt ex-parte temporary injunction restraining the use of deceptive or identical trade-name followed by appointment of a local commissioner has been held by the Supreme Court as proper. See--- **Luxmi Kant V. Patel vs. Chetanbhat Shah, 2002 (46) ALR 324 (SC)**

(B) Where there was common field of activity between the two parties in respect of goods and trademarks sought to be used by them were also identical and both the parties had applied for registration of their respected trade u/s. 21(3) of the Trade and Merchandise Marks Act, 1958, it has been held by the Supreme Court that under the facts of the case grant of interim injunction in favour of one of the parties was not proper. See--- **Uniply Industries Ltd. vs. Unicorn Plywood Pvt. Ltd., AIR 2001 SC 2083**

**44. Public premises & injunction against
eviction therefrom**

A building belonging to Govt. is a public premise u/s. 2 of the U.P. Public Premises (Eviction of Unauthorized Occupants) Act, 1972 and a retired Govt. Servant being an unauthorized occupant, cannot seek injunction against his eviction. See--- **State of U.P. vs. Rooplal Sharma, 1997 (29) ALR 373 (SC)**

45(A). The Uttar Pradesh Revenue Code, 2006 (UP Act No. 8 of 2012)

The UPZA & LR Act, 1950 and the UP Land Revenue Act, 1901 and 30 other Acts relating to the lands and land revenue etc. in UP have now been

repealed by "The Uttar Pradesh Revenue Code, 2006" (UP Act No. 8 of 2012) = mRrj izns'k jktLo lafgrkj 2006-

As per Section 1(3) of "The Uttar Pradesh Revenue Code, 2006", the said Code shall come into force on such date as the State Government may, by notification, appoint and different dates may be appointed for different areas or for different provisions of this Code. The Uttar Pradesh Revenue Code, 2006 has been assented to by the President of India on 29.11.2012 under Article 201 of the Constitution. "The Uttar Pradesh Revenue Code, 2006" has come into force vide UP Government's Notification No. -1044/79-V-1-12-1(ka)33/06, Lucknow : dated December 12, 2012.

**45(B).Sec. 229-B, 229-D, 331 of the UPZA & LR Act, 1950 &
The Power of Civil Court to Grant Injunction**

Note : The UPZA & LR Act, 1950 and the UP Land Revenue Act, 1901 and 30 other Acts relating to the lands and land revenue etc. in UP have now been repealed by "The Uttar Pradesh Revenue Code, 2006" (UP Act No. 8 of 2012) = mRrj izns'k jktLo lafgrkj 2006-

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If the name of the plaintiff is not recorded as tenure holder of the agricultural land in the revenue records and question of declaration of title is involved, the jurisdiction of the civil court to entertain injunction suit and grant interim injunction would be barred u/s. 331 of the U.P. Zamindari Abolition & Land Reforms Act, 1951 as the civil court cannot direct for the expunction or correction of the entries in revenue records and the same can be done only by the revenue courts. The remedy of the plaintiff in respect of the agricultural land under such facts and circumstances would be a suit for declaration of title before the revenue court u/s. 229-B of the UPZA & LR Act, 1951 and interim injunction can also be granted by the revenue court u/s. 229-D of the that Act. But where the name of the plaintiff is recorded in the revenue records as tenure holder of the agricultural land and no question of declaration of title is involved, the plaintiff can institute a suit in civil court for injunction against the defendant for restraining him from transferring

the land, interfering with the possession of the plaintiff or demolishing any constructions etc. on such land or cutting trees etc. standing thereon. See---

1. **Kamla Shankar vs. IIIrd ADJ, Mirzapur, 1998(89) R.D. 484 (All)**
2. **Magan Lal Chaturvedi vs. District Judge, Mathura, 1998 ALJ 2323 (All)**
3. **Deokinandan vs. Surajpal, 1996 ALJ 144 (SC)**
4. **Tej Bhan Singh vs. II ADJ, Jaunpur, 1995 ALJ 109 (All)**
5. **Surya Narain Pandey vs. Addl. Civil Judge, Gyanpur, 1995 R.D. (H) 50 (All)**
6. **Jyoti Ram vs. District Judge, Saharanpur, 1995 RD 99 (All)**
7. **Tej Bhan Singh vs. IX ADJ, Jaunpur, 1994 R.D. 476 (All)**
8. **Indra Pal vs. Jagannath, 1993 ALJ 235 (All)**
9. **Bhagwat Prasad vs. Jitendra Narain, 1991 ALJ 971 (All)**
10. **Chandra Deo Pathak vs. Swami Nath Pathak, 1987 R.D. 51 (All)**
11. **Vijai Singh vs. 2nd ADJ, Bulandshahr, 1982 ALJ 725 (All)**
12. **1980 R.D. 32 (Summary of Cases-43) (All—L.B.)**
13. **Jai Singh vs. Hanumant Singh, 1979 ALJ 645 (All)**
14. **Kishori Lal vs. Shambhoo Nath, 1978 ALJ 1273 (All)**
15. **Parsottam vs. Narottam, 1970 ALJ 505 (All—D.B.)**

46. Cantonment Act, 1924 & injunction

Injunction cannot be granted to protect any encroachment on any street or structure projecting into a drain belonging to cantonment board otherwise the drains, streets and roads may soon disappear. Injunction cannot be granted against the notice issued by the cantonment board u/s. 254(2) of the Cantonment Act, 1924 for demolition of any unauthorized construction etc. See---

1. **Atul Kumar Jain vs. Cantonment Board, Meerut, AIR 2007 (NOC) 1499 (All)**
2. **Cantonment Board, Meerut vs. Narain Dass, AIR 1970 SC 105**

47. Share Certificates & Injunction

The company recognizes no person except one whose name is on the register of members, upon whom alone calls for unpaid capital can be made and to whom only the dividend declared by the company is legally payable. Of course, between the transferor and the transferee, certain equities arise even on the execution and handing over of a blank transfer, and among these equities is the right of the transferee to claim the dividend declared and paid to the transferor who is treated as a trustee on behalf of the transferee. These equities, however, do not touch the company, and no claim by the transferee whose name is not in the register of

members can be made against the company, if the transferor retains the money in his own hands and fails to pay it to him. The right of a transferee is only to call upon the company to register his name and no more. No rights arise till such registration takes place the completion of the transaction by having the name entered in the register of members relates it back to the time when the transfer was first made. So far as the question of rectification is concerned, it is the company court alone which would have jurisdiction. But issues regarding title or ownership etc. of the disputed shares will be decided by civil court only. Power to refuse to register transfer of shares, without assigning any reasons, or in the directors' absolute and uncontrolled discretion, is often found in the Articles of Association of a company. A person aggrieved by the refusal to register transfer of shares has, since the enactment of the Companies Act, 1956, two remedies for seeking relief under the Companies Act; **(1)** to apply to the court for rectification of the register u/s. 155 of the Companies Act, 1956, and **(2)** to appeal against the resolution refusing to register the transfers u/s. 111 of the Companies Act, 1956. Interpreting the provisions of Sec. 155 & 446 of the Companies Act, 1956, it has been held by the Supreme Court (in AIR 1998 SC 3153) that the jurisdiction of the company court u/s. 155 of the Companies Act, 1956 is summary in nature and the civil courts jurisdiction regarding rectification of register of members is impliedly barred. See---

1. **Surendra Prakash Goyal vs. M/s. Goyal Industries Pvt. Ltd., 1980 Tax L.R. 2007 (All)**
2. **M/s. A.S. Corporation (P) Ltd. vs. M/s. M.P. Containers Pvt. Ltd., AIR 1998 SC 3153**
3. **Life Insurance Corporation of India vs. Escorts Ltd. & others, AIR 1986 SC 1370**
4. **Harinagar Sugar Mills Ltd. vs. Shyam Sunder Jhunjunwala, AIR 1961 SC 1669**
5. **M/s. Howrah Trading Co. Ltd. vs. Commissioner of Income Tax, Central, Calcutta, AIR 1959 SC 775**

48. Order 39, Rule 2-A CPC

(A) Scope of Order 39, r. 2-A CPC---- In case of breach of temporary injunction, court has power either to order detention of disobeying party or attach his property. Both steps can be resorted to or one of them alone need be chosen by court depending on facts in each case. See--- **Samee Khan vs. Bindu Khan, AIR 1998 SC 2765**

(A-1) Requisites to be proved u/o. 39, Rule 2-A CPC for holding the contemnor liable--- In order to hold the defendant/contemnor liable u/o. 39, Rule 2-A CPC, the following factors must be proved by the plaintiff-----

- (i) That there was some injunction order passed by the Court.
 - (ii) That the injunction order was conveyed to or served on the defendant/contemnor.
 - (iii) That the defendant/contemnor had time and means to obey the order.
 - (iv) That the disobedience or breach was deliberate and willful.
- (B). Violation of injunction must be willfully to entail punishment:** Violation of order of injunction, interim or final, is serious matter. But unless there is clear evidence showing that the party willfully violated the Court order, he cannot be punished under Order 39, rule 2-A CPC or under Order 21, rule 32(5) CPC. See: **Ramasamy Vs. Venkatachalapathi, (2019) 3 SCC 544**

(C-1) Liability for breach of temporary injunction when passed without jurisdiction---- A contemnor of breach of temporary injunction is liable to be punished u/o 39, r. 2-A CPC even if the suit was not maintainable and the interim injunction was passed without jurisdiction by the court or when ultimately the suit was dismissed as not maintainable for want of jurisdiction. See--- **Tayabhai M. Bagasarwalla vs. Hind Rubber Industries Pvt. Ltd., (1997) 3 SCC 443**

(C-2). Contemnor of interim injunction can be punished U/O 39, rule 2-A CPC and not under the Contempt of Courts Act, 1971 Where an injunction under Order 39, Rules 1 and 2 of the CPC is granted by a subordinate Court, High Court cannot punish the contemnor. It is considered a civil contempt punishable under O. 39, R. 2-A of the Code. It is outside the purview of Section 2(b) of the Contempt of Courts Act, 1971 since the scope of contempt of Court as contemplated under Order 39, R. 2-A(1) of CPC is different and is narrower than the scope of civil contempt within the meaning of Section 2(b) of the said Act, 1971. The provisions under Order. 39, R. 2-A of CPC provides an elaborate and exhaustive provision for dealing with breach of injunction order which is a serious matter since the Civil Court is empowered to order to take away even the liberty of an individual by detention of the person in a civil prison who has violated the order. So the power is penal in nature and the burden is heavy on the person who alleges disobedience to prove the ingredients of the offence beyond reasonable doubt since there has to be a clear proof that the order so ordered was clear, distinct, unambiguous and with full knowledge of the contemnor. See:

(i). Tapan Pal Vs. Pronab Pal, AIR 2019 Calcutta 139

(ii). AIR 1982 Karnataka 182

(D) Liability of state for breach of temporary injunction---- Officers of the state breaching or disobeying the temporary injunction issued by court are liable to be punished u/o 39, r. 2-A CPC. See--- **State of Bihar vs. Rani Sonabati Kumari, AIR 1961 SC 221 (Five Judge Bench)**

(E) **Appeal against an order passed u/o 39, r. 2-A CPC---** An order passed by trial court u/o 39, r. 2-A CPC is appealable u/o 43, r. 1 (r) CPC. Such an appeal must be decided by the appellate court on its merits. See--**G. Kamala Rao vs. K. Jawahar Reddy, (2000) 9 SCC 231**

(F-1) **Restoration of status quo ante---** Where the defendant had demolished the construction despite interim injunction issued by the court, it has been held that the court can order for restoration of status quo ante. See--- **Satya Prakash vs. Ist ADJ, Etawah, AIR 2002 All 198**

(F-2) **Interim orders must be enforced:** Interim orders of courts are an integral element of judicial review. Interim directions issued on the basis of the prima facie findings in a case are temporary arrangements till the matter is finally decided. Interim orders ensure that the cause which is being agitated does not become infructuous before the final hearing. The power of judicial review is not only about the writs issued by superior courts or the striking down of governmental action. Entrustment of judicial review is accompanied by a duty to ensure that the judicial orders are complied with. Unless the orders are enforced, citizens will lose faith in the efficacy of judicial review and in the legal system that the faith of the citizens in the constitutional courts of the country be maintained. See: **K.S. Puttaswamy Vs. Union of India, (2019) 1 SCC 1 (Five - Judge Bench)(Para ZU)**

(G) **Police Aid for Implementing Temporary Injunction & Duty of Court---** Once the court is satisfied that interim order passed by it is disobeyed, there could be no justification for the court not to initiate proceedings for enforcement of its order. Court cannot be merely a silent spectator while the order passed by it is being violated with impunity and the party is left on the mercy of the so called administration. It is not only an obligation but a solemn duty of the court to enforce its order by all means and to ensure that the interim order passed by it is complied with. To achieve the same, court should issue necessary instructions to the police if facts so warrant. See---

1. **Board of Trustees of the Port of Mumbai Vs. Nikhil N. Gupta, (2015) 10 SCC 139.**

2. **Sree Ram vs. State Of U.P. 2011 (2) ALJ 187(All...DB)**

3. **Smt. Jagannathiya vs. State of U.P., 2006 (64) ALR 330 (All—D.B.)**

Note-- In the case of Smt. Jagannathiya, noted above, the Division Bench of the Allahabad High Court directed the civil court, Kaushambi to issue necessary orders to the **Superintendent of Police**, Kaushambi to take all measures to ensure compliance of the interim order passed by it at the earliest. The following rulings have been relied upon by the Division Bench in the case of Smt. Jagannathiya---

- (2) **Rameshwarlal vs. Municipal Council, Tonk, (1996) 6 SCC 100**
- (3) **K.L. Viramani vs. III ADJ, 1992 (20) ALR 1065 (All)**
- (4) **State of Bihar vs. Rani Sonabati Kumari, AIR 1961 SC 221**
- (5) **Kochira Krishnan vs. Joseph Desouza, AIR 1986 Kerala 63**
- (6) **Sita Ram vs. Ganesh Das, AIR 1973 All 449**
- (7) **Samee Khan vs. Bindu Khan, AIR 1998 SC 2765**

(H-1) Contempt of Courts Act, 1971 applies to breach of injunction despite the remedy under order 39, rule 2-A CPC : Section 22 of Contempt of Courts Act, 1971 provides that right to proceed under the said Act is an additional right. Besides, power of High Court in respect of contempt stems not only from Contempt of Courts Act, 1971 but also from Article 215 of the Constitution of India. The said power under Article 215 cannot be abridged or abrogated or cut down or controlled or limited by any statute or rules or provision of CPC. Further, in view of Section 122 CPC, in case of any conflict between provisions of CPC and rules framed by High Court, the latter will prevail. Provisions of Order 39, rule 2-A CPC cannot override said rules. Dismissal of contempt petition by High Court on ground that in view of specific remedy being available under Order 39, rule 2-A CPC to meet the contingency of breach of injunction orders, person complaining of breach of injunction order should not be allowed to take up proceedings under Contempt of Courts Act, 1971, was not proper. A party committing breach of any order of court, whether interlocutory or final, is liable to be proceeded against in respect of Contempt of Court. See : **Welset Engineers & Another Vs. Vikas Auto Industries & Others, (2015) 10 SCC 609.**

(H-2) Contempt of Court Act, 1971 not to apply when specific provisions for the same are available in CPC: Normally, the general provisions made under the Contempt of Courts Act are not invoked by the High Courts for forcing a party to obey orders passed by its subordinate courts for the simple reason that there are provisions contained in Code of Civil Procedure, 1908 to get executed its orders and decrees. It is settled principle of law that where there are special law and general law, the provisions of special law would prevail over general law. As such, in normal circumstances a decree holder cannot take recourse of Contempt of Court Act else it is sure to throw open a floodgate of litigation under contempt jurisdiction. It is not the object of the Contempt of Courts Act to make decree holders rush to the High Courts simply for the reason that the decree passed by the subordinate court is not obeyed. See : **E. Bapanaiah Vs. K. S. Raju, 2015 CrLJ 567 (SC).**

(H-3) O. 39, Rule 2-A CPC & Contempt of Courts Act, 1971--- Scope and applicability--- In case of disobedience of interim injunction orders, it has been held by the Division Bench of the Allahabad High Court that the provision of O. 39, Rule 2-A CPC prevails over the provisions of Contempt of Courts Act, 1971. See---

1. **Smt. Jagannathiya vs. State of U.P., 2006 (64) ALR 330 (All—D.B.)**
2. **Dr. Alka Jaiswal Vs Fr. I. Farnandes, 1986 ALJ 133(All)**
3. **Anis Ahmad Khan Vs. State of UP, 1985 ALJ 30 (All)**

(H-4) Tribunals have power to punish for contempt : Tribunals have power to punish for contempt of Court. See : **Madras Bar Association Vs. Union of India, (2015) 8 SCC 583 (Five-Judge Bench).**

(H-5).

(H-6) Labour Court's decision not to be treated as Precedent : Labour Court is not a Court of record hence creates no precedents. See... **Rahimuddin & Others Vs. Gossini Fashions Ltd., 2012 (2) SLJ 487 (Delhi High Court).**

49. Exhibition of T.V. serial

Where interim injunction was granted by court against the exhibition of certain episodes of a T.V. serial entitled “Honi Anthoni”, the Supreme Court interpreting the provisions of Order 39, r. 1 & 2 CPC, Article 19(1)(a) of the Constitution and the provisions of Cinematograph Act, 1952, has held that as no prima facie evidence was produced to show that the exhibition of the serial was prejudicial to certain community or likely to cause any grave prejudice to public generally or endanger public morality and therefore the grant of interim injunction against the exhibition of the serial was held improper. See--- **Odyssey Communications Pvt. Ltd. vs. Lokvidayan Sabnghatana, AIR 1988 SC 1642**

50(A). Election & Temporary Injunction

(See-- Or. 39, rule 2, sub-rule 2, U.P. Amendment, proviso, clause (e) CPC)

Once the electoral process has commenced, there can be no judicial interference by courts in it and no interim relief can be granted in relation thereto. Or. 39, rule 2, sub-rule 2, U.P. Amendment, proviso, clause (e) *CPC* also bars grant of interim injunction restraining any election See---

1. **Swami Prakasananda vs. State of Kerala, 2006 (65) ALR 617 (SC)**
2. **Buddula Krishnaiah vs. State Election Commissioner A.P., AIR 1996 SC 1595**
3. **Mohinder Singh Gill vs. Chief Election Commissioner, AIR 1978 SC 851**

50(B). Courts not to interfere in the election process during the mid of the elections

Once an election process has been set in motion, though the High Court may entertain or may have already entertained a writ petition under Article 226 of the Constitution, it would not be justified in interfering with the election process giving direction to the election officer to stall the proceedings or to conduct the election process afresh particularly when the election has already been held in which the voters were allegedly prevented to exercise their franchise as that dispute is covered by an election dispute and remedy is thus available at law for redressal. In the circumstances, the order passed by the High Court giving direction not to declare the result of the election or to conduct fresh poll for 20 persons, though the writ petition is maintainable, would be illegal. The High Court, pending writ petition, would not be justified in issuing direction to stall the election process. See : (i) Boddula Krishnaiah Vs. State Election Commissioner, A.P., AIR 1996 SC 1595 (Three-Judge Bench) (paras 11 & 12), (ii) Lakshmi Charan Sen Vs. A. K. M. Hassan Uzzaman, AIR 1985 SC 1233 (Five-Judge Bench)(para 28) and (iii) State of U. P. Vs. Pradhan Sangh Kshetra samiti, (1995) Supp (2) SCC 305 (at page 331)

51(A). Grant of interim injunction during stay of proceedings of suit

An interlocutory application or interim injunction application can be entertained and interim injunction can be granted u/o. 39, r. 1 & 2 CPC or u/s. 151 CPC during the period of stay (including stay of suit u/s. 10 CPC) of suit if it does not affect the final decision of the suit on merits. See---

1. **Rameshwar vs. V ADJ, Basti, 1999 ALJ 22 (All)**
2. **Indian Bank vs. Maharashtra State Co-operative Marketing Federation Ltd., AIR 1998 SC 1952**
3. **Radha Rani Cold Storage Pvt. Ltd. Vs. UP State Cold Storage Tribunal & Others, 2009 (27) LCD 1391(All..D.B.)**
4. **Mool Chand Yadav Vs. Raza Buland Sugar Company Limited, Rampur, 1982 (3) SCC 484**
5. **Daroga & Another Vs. Commissioner, Gorakhpur & Others, 1996 (14) LCD 506 (All..D.B.)**

51(B). Grant of interim injunction u/s 151 CPC during stay of proceedings of suit

U/s 151 CPC, civil court can in exercise of its inherent powers grant interim injunction even during the period of stay of the proceedings by the superior court. See : **Breach Candy Swimming Bath Trust Vs. Dipesh Mehta, AIR 2016 (NOC) 167 (Bombay).**

52. Appeal against order granting interim injunction

(A) An appeal u/o. 43, Rule 1 (r) CPC lies against an order passed by court u/s. 104 CPC r/w. Order 39, Rule 1 & 2, Rule 2-A, Rule 4 & Rule 10 CPC. It cannot be contended that the power to pass interim ex-parte orders of injunction does not emanate from O. 39, R. 1. In fact, the said rule is the repository of the power to grant orders of temporary injunction with or without notice, interim or temporary, or till further orders or till the disposal of the suit. Hence, any order passed in exercise of the aforesaid powers in Rule 1 would be appealable as indicated in Order 43 Rule 1 of the Code. The choice is for the party affected by the order either to move the appellate Court or to approach the same Court which passed the ex-parte order for any relief. See--- **A. Venkatasubbiah Naidu vs. S. Chellappan, AIR 2000 SC 3032**

(B) Appeal does not lie against an order granting ex-parte temporary injunction u/s. 151 CPC. See--- **Zila Parishad, Budaun vs. Brahma Rishi Sharma, AIR 1970 All 376 (F.B.)**

(C) Appeal against an order passed u/o 39, r. 2-A CPC--- An order passed by trial court u/o 39, r. 2-A CPC is appealable u/o 43, r. 1 (r) CPC. Such an appeal must be decided by the appellate court on its merits. See--**G. Kamala Rao vs. K. Jawahar Reddy, (2000) 9 SCC 231**

53. Revision u/s. 115 CPC against issue of notice u/o. 39, r. 3 CPC

Revision u/s. 115 CPC against issue of notice by court u/o 39, r. 3 CPC is not maintainable. See---

1. **Lucknow Diocesan Trust Assn. vs. Sri B.C. Jain & others, 2006 (1) ARC 153 (All)**
2. **Col. Anil Kak (Retd.) vs. Municipal Corp., Indore, 2006 (1) ARC 39 (SC)**
3. **Bhagwati Pd. Lohar vs. State of U.P., 2005 (99) RD 333 (All)**
4. **Gayatri Devi vs. Shashi Pal Singh, 2005 (1) SCJ 637**
5. **Yashwant Sakhalkar vs. Hirabat Kamat Mhamai, (2004)6 SCC 71**

6. **Suryadeo Rai vs. Ram Chander Rai, (2003) 6 SCC 675**
7. **Rajendra Singh vs. Sri Brij Mohan Agarwal, 2003(1) ARC 270 (All)**
8. **Shiv Shakti Co-operative Housing Society vs. Swaraj Developers, (2003) 6 SCC 659**
9. **Ravinder Kaur vs. Ashok Kumar, (2003) 8 SCC 289**
10. **United India Insurance Co. Ltd. vs. Rajendra Singh, AIR 2000 SC 1165**
11. **Rajbir Singh vs. VII ADJ, Muzaffarnagar, 1998 RD 483 (All)**
12. **S.P. Chengal Varaya Naidu vs. Jagannath, AIR 1994 SC 853**

Note: In compliance with the order of Hon'ble Allahabad High Court passed in writ petition no. 802 (M/s) of 2007, Lalit Mohan Srivastava vs. Distt. Judge, Ambedkar Nagar & others, **C.L. No. 18/2007, dated 11.5.2007** and the **C.L. No. 15/Admin 'G' 2006, dated 3.5.2006** in compliance with the directions issued in the case of **Bhagwati Pd. Lohar vs. State of U.P., 2005 (99) RD 333 (All)** circulated amongst the judicial officers of the State of U.P. directs that revision u/s. 115 CPC against issue of notice u/o 39, r. 1, 2, 3 CPC being interlocutory is not maintainable.

54. Religious matters & Injunction

(A) Where a group of Muslims was prevented by other Muslims from loudly uttering "Aameen" in mosque, it has been held by the Allahabad High Court that a Musalman is entitled to enter a mosque dedicated to God and in the prayers utter the word "Aameen" loudly but not with a malafide intention to disturb the peace of the congregation and grant of injunction in such religious matters has been held proper. See--- **Syed Farzand Ali vs. Nasir Beg, AIR 1980 All 342**

(B) Where a suit was filed to restrain defendants from using land belonging to a deity by plaintiff as representing the worshippers of the deity in the temple u/o. 1, r. 8 after obtaining permission from court which was given after notice and contest, the suit would be maintainable at the instance of the plaintiff when the defendants failed to prove that the plaintiffs were Arya Samajists, i.e., non-believers in worship of deity and the plaintiffs were descendants of persons who had constructed the temple for the idol. Case law discussed. See--- **Vidya Sagar Sharma vs. Anand Swarup Dublish, AIR 1981 All 106**

(C) **Injunction can be granted to perform "pooja" in a temple** : Where the dispute in a civil suit was in relation to a temple and the plaintiff had sought interim injunction against the defendant restraining him from interfering in the plaintiff's right to perform pooja in the temple, it has been held that if the plaintiff was the true owner of the property as claimed by him, he can claim injunction against the defendant even if he was not performing pooja at the relevant time. See--- **Bhairab Dutt Vs. Bala Dutt Bhatt, 2011(114) RD 199(Uttarakhand)**

(D) Mahantship though a legal right but not heritable like ordinary property : In the conception of Mahantship, as in shebaitship, both the elements of office and property of duties and personal interest are blended together and neither can be detached from the other. The personal or beneficial interest of the Mahant in the endowments attached to an institution is manifested in his large powers of disposal and administration and his right to create derivative tenures in respect to endowed properties and these and other rights of a similar character invest the office of the Mahant with the character of proprietary right which, though anomalous to some extent, is still a genuine legal right. However, the Mahantship is not heritable like ordinary property. See : The Commissioner, Hindu Religious Endowments, Madras Vs. Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt, AIR 1954 SC 282 (Seven-Judge Bench)(para 11).

55. Invoking Bank Guarantee & Injunction

Court cannot restrain from invoking bank guarantee given under a contract of supply of goods. See--- **The State Trading Corporation of India Ltd. vs. Jainsons Clothing Corporation, AIR 1994 SC 2778**

56. Grant of temporary injunction u/s. 151 CPC after rejection of application for interim injunction under Order 39, Rule 1 & 2 CPC

Temporary injunction cannot be granted u/o. 39, r. 1 & 2 CPC if the imperative THREE conditions (1. prima facie case, 2. irreparable injury, 3. balance of convenience) or any of them is missing. But even after rejection of the application u/o. 39, r. 1 & 2 CPC, plaintiff can move fresh application for temporary injunction u/s. 151 CPC and the court can grant temporary injunction u/s. 151 CPC in the interest of justice if it is found to be imperative in the interest of justice, even if the three ingredients or any of them is missing u/o. 39, r. 1 & 2 CPC. See---

1. Vareed Jacob vs. Sosamma Geevarghese, (2004) 6 SCC 378

2. Satya Prakash vs. First ADJ, Etah, 2002 (47) ALR 285 (All)

57. Anti-Suit Injunction

Principles governing grant of injunction u/o. 39, r. 1 & 2 CPC apply in relating to anti-suit injunctions also. It is well settled principle that by agreement the parties cannot confer jurisdiction, where none exists, on a Court to which CPC applies, but this principle does not apply when the parties agree to submit to the exclusive or non-exclusive jurisdiction of a foreign Court; indeed in such cases the

English Courts do permit invoking their jurisdiction. Thus, it is clear that the parties to a contract may agree to have their disputes resolved by a Foreign Court termed as a 'neutral Court' or 'Court of choice' creating exclusive or non-exclusive jurisdiction in it. See--- **Modi Entertainment Network vs. W.S.G. Cricket Pte. Ltd.**, AIR 2003 SC 1177

58. Restraining public servant from exercising his powers

No injunction can be granted to restrain a public servant from exercising his powers for doing some act for which he is otherwise empowered by some law to do. See---

1. **Rajendra Kumar Singh vs. Munsif Kashipur Nainital**, 1997(15) LCD 552 (All)—Case of grant of permit under MV Act, 1988
2. **Cotton Corporation of India Ltd. vs. United Industrial Bank Ltd.**, AIR 1983 SC 1272—Case of T.I. restraining institution of proceeding in court.

59. Recovery Of Public Dues & Loans From Financial Institutions

(Or. 39, rule 2, sub-rule 2, U.P. Amendment, proviso, clause (g) CPC)

No injunction can be granted to restrain recovery of public dues like **electric bill**, **telephone bill**, **taxes**, **land revenue**, **bank loans** or any other loans taken from financial institutions. See---

1. **Balram vs. State of U.P.**, 2002 (47) ALR 30 (All—D.B.)
2. **M/s Chandranand Packaging vs. U.P. Financial Corporation**, ALR 1996 (27) 173 (All) (*UPFC Loan*)
3. **Union of India vs. Shree Ganesh Steel Rolling Mills Ltd.**, 1996 (2) CCC 225 (SC) (*Revenue Dues*)
4. **Pawan Kumar Jain vs. I and I Corporation of U.P. Ltd.**, AIR 1998 All. 57 (*Dues of financial corporation*)
5. **Mahesh Chandra vs. Zila Panchayat, Mainpuri**, AIR 1997 All. 248 (*Arrears recoverable as land revenue*)
6. **U.P. State Industrial Development Corporation Ltd. vs. C.R. Newar**, (1995) JCLR 27 All. (*Industrial Loan*)
7. **Guru Nanak Beverages and Comp. vs. D.M., Allahabad**, AWC 1996 All. 653 (*Bank Loan*)
8. **Radha Krishna Bhatt vs. State of U.P.**, 1992 RD 1 (All.) (*Recovery of forest dues*)

60. Disconnection of Electricity & Injunction

(A) Where interim prohibitory injunction was sought for by the plaintiff in a suit for injunction only for restraining the electricity board from effecting

disconnection without seeking declaration of non-liability of dues, it has been held by the Allahabad High Court that the suit was not maintainable and injunction against disconnection of supply of electricity could not be granted. See---

1. **M/s. Geeta Pump (P) Ltd. vs. District Judge, Saharanpur, AIR 2000 All 58**
2. **M/s. Pilibhit Ispat (P) Ltd. vs. U.P. State Electricity Board, AIR 1996 All 329 (D.B.)**
3. **Sir Shadi Lal Enterprises Ltd. vs. State of U.P., 1995 ALJ 1517 (All)(D.B.)**
4. **Debi Dayal vs. U.P. State Electricity Board, 1988 Civil Law Journal 266 (All)**

Note: Injunction against disconnection of supply of electricity cannot be granted in view of the provisions **u/s. 4 & 5 of the U.P. Government Electrical Under Taking (Dues Recovery) Act, 1958.**

(B) Bar of Sec. 145 of Electricity Act, 2003 against grant of Temporary Injunction--- According to Sec. 145 of the Electricity Act, 2003, no civil court have jurisdiction to entertain any suit or proceeding in respect of any matter which an assessing officer referred to in Sec. 126 or an appellate authority referred to in Sec. 127 or the adjudicating officer appointed under this Act is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

61. Extension of already discontinued interim injunction/stay order

Interim injunction/stay order when discontinued- An interim injunction/stay order when extended to a particular date but not extended further beyond that particular date, would be presumed to have ceased from the date of non-extension. See--- **Ashok Kumar vs. State of Haryana, AIR 2007 SC 1411.**

62. Discharge etc. of temporary injunction

In view of the second proviso added to Rule 4 of Order 39 CPC in the State of U.P. since 1.2.1977, the court shall set aside the order of injunction if the party in whose favour the interim order of injunction was granted, appears to be dilating the proceedings or otherwise abuses the process of the court.

63. Consent, waiver or acquiescence & jurisdiction of Civil Courts

No amount of consent, waiver or acquiescence can confer jurisdiction on a court which it inherently lacks or where none exists. See--- **Vithalbai (P) Ltd. vs. Union Bank of India, (2005) 4 SCC 315.**

64. Civil/Revenue Courts have no jurisdiction in respect of waqf property :

In view of the provisions of the Waqf Act, 1995 as amended by Act of 2013, Civil and Revenue Courts have no jurisdiction to decide suits in respect of the

waqf property. See : Lal Shah Baba Dargah Trust Vs. Magnum Developers, AIR 2016 SC 381.
