



WHAT IS AN INJUNCTION? DISCUSS ITS TYPES UNDER CPC

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ABSTRACT

A judicial remedy known as an injunction is used to prevent injury and protect rights by preventing a party from undertaking a specified act or compelling them to execute one. Injunctions, which are governed by the Code of Civil Procedure (CPC) and the Specific Relief Act, of 1963, are crucial in civil action to uphold the status quo or administer justice. In general, there are two types of injunctions: temporary and permanent. Order XXXIX Rules 1 and 2 of the CPC provide for temporary injunctions, which are interim orders granted while a lawsuit is pending in order to stop irreversible harm or damage. Perpetual injunctions, which permanently prohibit one party from violating another's legal rights, are awarded as a last resort following the adjudication of rights under Section 38 of the Specific Relief Act. Furthermore, under Section 39, mandatory injunctions require a party to carry out a particular activity in order to correct wrongdoing or its effects. A prima facie case, the balance of convenience, and the possibility of irreversible harm are some of the criteria that determine whether these remedies are granted. Upholding justice, protecting rights, and guaranteeing that legal remedies continue to be effective throughout the litigation process are all made possible by injunctions.

Keywords: Injunctions Under CPC, Prima Facie Case, Balance of Convenience, Irreparable Harm, Final Relief.

WHAT IS AN INJUNCTION?

An injunction is a legal remedy that a court of law can grant to stop a party to a dispute from committing an act of wrongdoing or from continuing an already-committed act. Individuals or

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organisations that violate a court-issued injunction may be subject to criminal or civil penalties or be found in contempt of court.

Therefore, an injunction is a specific court order that is given to stop an unlawful act or the beginning of an unlawful act until the matter is resolved. It may be granted at any point throughout the litigation in response to a request for an injunction order against the opposing party. In India, the Specific Relief Act of 1963 and the Code of Civil Procedure of 1908 contain provisions pertaining to injunctions.

For instance, A business brings a defamation lawsuit, claiming that the defendant (another party to the case) is disseminating or publishing inaccurate information about the business, which could result in financial loss for the business. A ruling to stop the other corporation from disclosing such damaging information about the company might not be rendered for several months. Therefore, the corporation may apply for an injunction to stop the opposing party from releasing incorrect material until the final verdict is rendered in order to prevent loss. An injunction order stops the other person from committing a crime, such as posting false information.

In *M. Gurudas and Ors*,¹ the court ruled that it would evaluate an application for an injunction based on three factors:

i) the case's prima facie legality; ii) the balance of convenience; iii) irreparable harm.

CONDITIONS FOR APPLYING FOR AN INJUNCTION

When the following requirements are met, the court will issue the injunction order:

- The party submitting the application for an injunction, known as the applicant, has a strong case that could be successful. A prima facie case indicates that the disagreement is sincere and that the petitioner has a chance of winning.
- The applicant has the advantage of convenience. This implies that if the injunction order is not given, the applicant will experience greater inconvenience than the opposing party against whom the injunction is requested.

¹ *M. Gurudas and Ors v. Rasaranjan*, AIR2006 SC 3275

- If the injunction is denied, the applicant will sustain irreversible loss or harm. An irreparable loss occurs when the applicant suffers a loss that cannot be quantified or made up in monetary terms.

HOW TO APPLY FOR AN INJUNCTION IN INDIA

1. **Suit Filing:** Bringing a lawsuit before the proper court is the first step in securing an injunction. Along with a request for the injunction, the action should contain all pertinent facts and supporting documentation.
2. **Application for Temporary Injunction:** The plaintiff must apply for a temporary injunction with their lawsuit if they hope to receive one. If the court determines that maintaining the status quo until a final decision can be made is necessary, it may issue a temporary injunction.
3. **Defendant Notice:** The defendant will get a notice from the court and have a chance to reply to the move for an injunction.
4. **Hearing:** After hearing arguments from both sides, the court will decide whether to issue the injunction.
5. **Injunction Compliance:** Should the court issue an injunction, the offender is subject to its terms or risk fines or jail time.

TYPES OF INJUNCTION UNDER CPC

Injunctions are mainly governed by Sections 94, 95, 36–42, and Order XXXIX Rules 1–5 of the Code of Civil Procedure, 1908 (CPC). They fall into one of two categories—temporary or perpetual injunctions—with the following particular variations:

1. TEMPORARY INJUNCTION (SECTION 94(C), ORDER XXXIX RULES 1–5 OF CPC)

A temporary injunction is issued to preserve the status quo and avoid irreversible harm while a lawsuit is pending. It is only in effect until the final judgement or additional court orders are issued, and it does not determine the case's merits. In the case of *Agricultural Produce Market Committee v. Girdharbhai R. Chhaniyara*², the Supreme Court determined that temporary

² *Agricultural Produce Market Committee v. Girdharbhai R. Chhaniyara*, AIR 1997 SC 2674

injunctions may only be issued if the petitioner possesses a definitive right that is capable of being enforced through injunctive relief.

Important Characteristics:

- Granted temporarily while a lawsuit is pending.
- Granted temporarily while a lawsuit is pending.
- Intended to stop injustice or irreversible harm.

The following situations may result in the granting of temporary injunctions under Order XXXIX Rule 1:

- **Property in Dispute:** There is a chance that this property will be ruined, alienated, or harmed.
- **Contract Violation or Injury:** The defendant makes threats to violate a contract or carry out an action that could cause harm to the plaintiff.
- **Disputed Property or Rights:** Any further situations in which the plaintiff's legal rights might be violated by the defendant's activities.

Requirements To Be Met:

The following three requirements must be fulfilled in order to issue a temporary injunction:

- **Prima Facie Case:** Based only on the case's merits, the plaintiff must demonstrate a chance of winning.
- **Irreparable Injury:** If the injunction is denied, the plaintiff must suffer irreparable harm that cannot be made up for with money.
- **Balance of Convenience:** The plaintiff's profit should never be greater than the defendant's inconvenience from the injunction.

Types Of Temporary Injunctions:

- **Ex-parte Injunctions (Order XXXIX Rule 3):** Issued in emergency situations to stop immediate harm without informing the opposing party. After both parties have been heard, such injunctions may be reviewed.

- **Interim Injunctions:** Granted after hearing both parties but remain effective only during the pendency of the suit.

2. PERPETUAL (OR PERMANENT) INJUNCTIONS (SECTION 38 OF CPC)

Once the court has determined the case's merits, a perpetual injunction is issued. It forces the defendant to fulfil a requirement or permanently forbids them from performing a particular act.

When Permitted:

- The act complained of would constitute a violation of the plaintiff's legal rights.
- Compensation as a remedy is insufficient or ineffectual.
- For instance, ordering the defendant to tear down any unpermitted building on the plaintiff's land.

Key Features:

- Permanent in nature, issued after the final judgment.
- Prohibits the defendant from performing a specific act indefinitely.
- Requires the plaintiff to have a clear legal right that has been violated

3. MANDATORY INJUNCTIONS

Mandatory injunctions are governed by **Section 39** of CPC and compel the defendant to perform a specific act.

Important Features:

- Aimed at correcting an injustice or putting the plaintiff back in the same situation as before the injury happened.
- Involves pressuring rather than holding back action.

When Mandatory Injunctions Are Issued:

- To keep a duty from being broken.
- In situations where equity demands that the defendant's harm be undone.
- Example: Giving the defendant instructions to tear down any unpermitted building on the plaintiff's land.

4. PROHIBITORY INJUNCTIONS:

The defendant is prevented from carrying out a specific act that would violate the plaintiff's legal rights by a Prohibitory Injunction.

Key Features:

- The most common form of injunction.
- Prevents harm by restraining specific actions.
- Example: Preventing the alienation of disputed property.

5. AD-INTERIM INJUNCTIONS:

Ad-interim injunctions are short-term directives issued at any point during the lawsuit to stop harm from happening right away. They are frequently issued ex parte and remain in force until the court has had a chance to hear arguments from both sides and issue a formal interim injunction.

Example: A court may issue an ad-interim injunction to halt construction on disputed land until the next hearing.

6. ANTI-SUIT INJUNCTIONS:

Anti-suit injunctions prevent a party from starting or pursuing legal action in a different venue or jurisdiction. Usually, these are given to avoid multiple proceedings or contradictory rulings.

When Granted:

- When parallel proceedings in another jurisdiction might cause injustice or hardship.
- When one court has exclusive jurisdiction over the matter.

7. RESTORATIVE INJUNCTIONS:

Restorative injunctions aim to restore the plaintiff to their original position before the defendant's wrongful act.

Example: Directing the defendant to remove encroachments on the plaintiff's land.

TECHNIQUES FOR SUCCESSFULLY SUBMITTING INJUNCTION PETITIONS

How well the petitioner can prove the necessity of the order is a major factor in determining whether or not an injunction petition is successful. This entails laying forth in detail the possible harm or irreversible damage that could happen in the absence of the court's involvement. A successful petition also depends on knowing the legal requirements for each kind of injunction and providing solid, factual evidence to back up the claim.

REASONS NOT TO ISSUE AN INJUNCTION

In the following situations, the court will not issue an injunction order against the opposite party:

- To prevent the opposite party from pursuing a case that is still pending, unless doing so would lead to several proceedings.
- To prevent the opposing party from submitting an application or a complaint to a legislative authority.
- To prevent the opposing party from initiating or pursuing legal action in a criminal case.
- To stop an act from harming the application after the applicant has indirectly consented to it, or acquiesced. Sometimes the applicant's silence will be seen as their approval to the act.
- If it is not immediately apparent that the other person's actions are bothersome.
- Where monetary compensation is available for the continuation of an unlawful act.
- When the applicant is no longer eligible for the court's aid due to their actions.
- When the candidate is not personally interested in the topic.

CONCLUSION

To sum up, Order 39 of the Civil Procedure Code allows for the issuance of interlocutory orders and temporary injunctions to preserve the status quo until the matter is resolved. In addition to permitting the issuing of ex parte injunctions in emergency situations, the terms of this decision provide the granting of several kinds of injunctions. The court has the ability to grant an injunction under Order 39, and it will take into account a number of considerations before making that decision. In India, injunctions are a significant legal remedy that gives parties the ability to stop the other party from engaging in a particular behaviour or activity. The Civil Procedure Code of 1908 and the Specific Relief Act of 1963 are the laws that govern

injunctions. Before requesting an injunction, it's crucial to consult a knowledgeable legal expert because the procedure might be difficult, and non-compliance can have serious repercussions. In India, injunctions are a significant legal remedy that gives parties the ability to stop the other party from engaging in a particular behaviour or activity. A lawsuit must be filed, a temporary injunction must be requested, and a hearing must be attended in order to get an injunction, which can be granted in a number of circumstances. Before requesting an injunction, parties should consult a knowledgeable legal expert because the procedure can be complex, and the consequences of non-compliance can be severe.

By ensuring that equity and justice are upheld, injunctions not only protect individual's rights but also contribute to the smooth functioning of the legal system thereby balancing the interests of all stakeholders which are involved.

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