

CASES ON INTERIM INJUNCTION

AIR 1980 Kerala 224

Karthiyayani Amma V. Govindan.

(A) Specific Relief Act (47 of 1963), S. 38 – Injunction – Person in possession without title, if can maintain a suit for injunction against true owner, restraining him from disturbing his possession.

AIR 1989 KERALA 81

Vincent and others V. Aisumma.

Civil P.C. (1908), O. 39 Rr.1 and 2 and O. 43, R.1(r) and S.115 – Suit for perpetual injunction – Application by defendant for mandatory injunction can be made under O.39 R.1(a) – Order dismissing application falls under O.39, R.1 – It is appealable – No revision lies.

1967 Mh.L.J.946

Narayandas S. Kanuga V. Sarasvatibai D. Joshi.

(a) Civil Procedure Code, O. 39 R. 2 and Specific Relief Act (1 of 1877), Ss. 54, 56 – To justify grant of injunction the threatened injury must be legal injury and not any fanciful injury – Power to grant injunction must be carefully exercised – If injunction is granted, opposite party's interests should be sufficiently protected.

1981 Mh.L.J. 276

Suresh D. Sanghvi V. Mohasinali H. Merchant.

(a) Civil Procedure Code, O. 39 Rr.1 and 2 and Specific Relief Act (47 of 1963), S. 41(b) – Power to grant even temporary injunction controlled by section 41(b) – City Civil Court being subordinate to High Court cannot grant injunction restraining execution of decree of High Court.

© Civil Procedure Code, O. 39, Rr.1 and 2 – Principles regarding grant of temporary injunction.

IX-1987(2) Current Civil Cases 507

Sudershanlal Jain and ors. V. Ratanlal Patni and anr.

Code of Civil Procedure, O. 39, R.2A R.2(3) – Proceeding against party guilty disobedience of injunction order – Disobedience must be wilful and order disobeyed must not be ambiguous or reasonably capable of more than one interpretation.

Code of Criminal Procedure, S. 145 of the Code of Civil Procedure, O. 39 – Interim injunction order issued against a party by Civil Court under O. 39 R.1, CPC in suit relating to possession of immovable property – He cannot disobey it even though order under S.145 Cr.P.C. is passed in his favour – Proper course for him is to bring criminal court's order to notice of Civil Court and apply for modification or cancellation of order passed by it.

2003(3) ALL MR 541

Smt. Ramchandra Shankar Randive & Ors. V. Shri Uttam Marutrao Randive & Ors.

Civil P.C. (1908), O. 39, Rr.1 & 2 – Constitution of India, Art.226 – Grant of injunction – Interference with, in writ jurisdiction – Courts below imposing unwarranted restrictions on enjoyment of property lawfully owned by petitioners – Courts below granting temporary injunction illegally and in breach of procedure – It amounts to miscarriage of justice warranting interference by High Court in writ jurisdiction.

1993(1) Current Civil Cases 119

Rattan Lal Sahdev V. Krishan Kumar & Ors.

Civil Procedure Code, 1908 – Order 39 Rules 1 & 2 – Suit for partition and separation of 1/4th share in property – Application for interim injunction restraining defendants from making alteration, selling, disposing or parting with possession and letting out any part of property in question – Plaintiff undisputedly owner of 1/4th undivided share in property – Transfers subsequent to a suit for partition of a joint property do create problems and unduly delay the disposal of suit – Equities of the case demand that status-quo be maintained during pendency of suit.

2003(1) Civil Court Cases 426 (P & H)

Pritam Singh & Ors. V. Chanan Singh & Ors.

Civil Procedure Code, 1908, O. 39 Rr.1,2 – Co-sharer – Restraining another co-sharer from raising construction over superior and valuable portion of the suit property without getting the same partitioned – Held, plaintiff a co-sharer is entitled to protect the suit land to ensure that the nature of suit land is not changed by another co-sharer – Proceedings for partition have been initiated and defendant would not suffer any prejudice because it would soon be clear which of the co-sharer would be entitled to occupy and possess which portion of the land.

Civil Procedure Code, 1908, O. 39 Rr.1,2 – Co-sharer-Restraining another co-sharer from raising construction – Defendant seeking permission to raise construction and demolish the same later on after partition – Held, such a course would result into unnecessary complications even in partition proceedings.