

# Temporary Injunction Under the Civil Procedure Code: A Critical Analysis

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***Abstract***—Temporary injunction is one of the most important equitable remedies provided under the Civil Procedure Code, 1908. It is intended to preserve the subject matter of a suit and maintain the status quo until the final disposal of the case. The power of granting temporary injunctions is mainly governed by Order XXXIX Rules 1 and 2 of the Civil Procedure Code. Courts exercise this power based on certain principles such as prima facie case, balance of convenience, and irreparable injury. Temporary injunction acts as a preventive relief to avoid injustice during the pendency of litigation. This paper examines the concept, nature, objectives, legal provisions, judicial interpretations, and challenges relating to temporary injunctions in India. The paper also analyses important judicial decisions and discusses the need for cautious judicial discretion while granting injunctions.

***Index Terms***—Temporary Injunction, CPC, Order XXXIX, Prima Facie Case, Balance of Convenience, Irreparable Injury.

## I. INTRODUCTION

The administration of justice requires not only the final adjudication of disputes but also immediate protective remedies during the pendency of proceedings. In civil litigation, situations often arise where the rights of parties may suffer irreparable harm before the court finally decides the matter. To prevent such injustice, courts are empowered to grant temporary injunctions under the Civil Procedure Code, 1908.<sup>1</sup>

A temporary injunction is an interim order issued by a court restraining a party from performing a particular act for a specified period or until further orders of the court. The primary objective of granting such injunction is to preserve the status quo and protect the rights of parties during the pendency of litigation.<sup>2</sup> Temporary injunctions are equitable remedies and are granted at the discretion of the court based on established legal principles.

The provisions relating to temporary injunctions are contained under Order XXXIX Rules 1 and 2 of the Civil Procedure Code. Indian courts have developed various judicial principles to regulate the exercise of this discretionary power. The courts generally consider three important factors before granting a temporary injunction: existence of a prima facie case, balance of convenience, and likelihood of irreparable injury.<sup>3</sup>

## II. MEANING AND NATURE OF TEMPORARY INJUNCTION

A temporary injunction refers to an interim judicial order restraining a person from doing a CV particular act temporarily until the disposal of the suit or until further orders. It is preventive in nature and aims to protect the legal rights of parties from being defeated during the pendency of proceedings.<sup>4</sup>

Temporary injunction differs from perpetual injunction. A perpetual injunction is granted by a final decree after hearing the merits of the case, whereas a temporary injunction is granted during the pendency of the suit.<sup>5</sup>

The remedy of injunction is based upon principles of equity, justice, and good conscience. Therefore, the conduct of the parties also plays an important role in determining whether such relief should be granted.

## III. LEGAL PROVISIONS UNDER THE CIVIL PROCEDURE CODE

The provisions governing temporary injunctions are provided under Order XXXIX Rules 1 and 2 of the Civil Procedure Code, 1908.

### Order XXXIX Rule 1

Under Rule 1, temporary injunction may be granted where:

1. The property in dispute is in danger of being wasted, damaged, or alienated;
2. The defendant threatens to remove or dispose of property with an intention to defraud creditors;
3. The defendant threatens to dispossess the plaintiff or otherwise cause injury to the plaintiff regarding the disputed property.<sup>6</sup>

### Order XXXIX Rule 2

Rule 2 empowers the court to grant injunctions to restrain the breach of contract or other injuries of any kind.<sup>7</sup>

These provisions ensure that parties do not misuse the pendency of litigation to defeat justice or alter the subject matter of the dispute.

#### IV. ESSENTIAL PRINCIPLES FOR GRANTING TEMPORARY INJUNCTION

Indian courts have consistently held that three essential conditions must be satisfied before granting temporary injunctions.

##### ## Prima Facie Case

The plaintiff must establish that there exists a serious question requiring trial and that the claim is not frivolous.<sup>8</sup> The court need not determine the final merits but must be satisfied that there is a reasonable case in favor of the plaintiff.

##### ## Balance of Convenience

The court must compare the inconvenience likely to be caused to both parties. Injunction will be granted if refusal would cause greater hardship to the plaintiff than the hardship caused to the defendant by granting it.<sup>9</sup>

##### ## Irreparable Injury

The plaintiff must prove that denial of injunction would result in injury that cannot be adequately compensated through monetary damages.<sup>10</sup>

These principles collectively guide judicial discretion and prevent arbitrary exercise of power.

##### # Important Judicial Decisions

##### ## Dalpat Kumar v. Prahlad Singh

In this landmark case, the Supreme Court held that the burden lies upon the plaintiff to establish a prima facie case, balance of convenience, and irreparable injury before seeking temporary injunction.<sup>11</sup> The Court emphasized that injunction is a discretionary and equitable remedy.

##### ## Gujarat Bottling Co. Ltd. V. Coca Cola Co.

The Supreme Court observed that injunctions are intended to preserve the status quo and protect legal rights pending adjudication of disputes.<sup>12</sup> The Court further stated that conduct of parties is an important consideration while granting equitable relief.

##### ## Wander Ltd. V. Antox India Pvt. Ltd.

The Supreme Court clarified that appellate courts should interfere with discretionary orders relating to temporary injunctions only when such discretion is exercised arbitrarily or perversely.<sup>13</sup>

#### V. CHALLENGES IN GRANTING TEMPORARY INJUNCTIONS

Despite its importance, the remedy of temporary injunction faces several practical challenges.

Firstly, misuse of injunction applications often delays civil proceedings. Parties sometimes seek injunctions merely to harass opponents or prolong litigation.

Secondly, inconsistent judicial discretion may result in contradictory decisions in similar circumstances. Since injunctions are equitable remedies, outcomes often depend on individual judicial interpretation.

Thirdly, *ex parte* injunctions may occasionally lead to abuse because orders are passed without hearing the opposite party. Though necessary in urgent cases, courts must exercise caution while granting such relief.<sup>15</sup>

Lastly, prolonged continuation of temporary injunctions without speedy disposal of suits defeats the principle of timely justice.

## VI. CONCLUSION

Temporary injunction is an essential equitable remedy under the Civil Procedure Code that protects parties from irreparable harm during the pendency of litigation. Order XXXIX Rules 1 and 2 empower courts to preserve the subject matter of disputes and maintain status quo until final adjudication. The principles of *prima facie* case, balance of convenience, and irreparable injury ensure fair exercise of judicial discretion.

Indian judiciary has played a significant role in shaping the law relating to temporary injunctions through various landmark decisions. However, misuse of injunction proceedings, delays in disposal of cases, and inconsistent exercise of discretion continue to pose challenges.

Therefore, courts must exercise caution, fairness, and judicial restraint while granting temporary injunctions. Proper balancing of competing interests is necessary to ensure that the remedy serves the ends of justice and does not become a tool for abuse of legal process.

## FOOTNOTES

- [1] Code of Civil Procedure, No. 5 of 1908, INDIA CODE (1908).
- [2] Mulla, *\*The Code of Civil Procedure\** 3321 (18<sup>th</sup> ed. 2016).
- [3] Dalpat Kumar v. Prahlad Singh, (1992) 1 SCC 719 (India).
- [4] C.K. Takwani, *\*Civil Procedure\** 421 (8<sup>th</sup> ed. 2017).
- [5] Specific Relief Act, No. 47 of 1963, §§ 37–38, INDIA CODE (1963).
- [6] Code of Civil Procedure, 1908, Order XXXIX, Rule 1.
- [7] Code of Civil Procedure, 1908, Order XXXIX, Rule 2
- [8] Martin Burn Ltd. V. R.N. Banerjee, AIR 1958 SC 79 (India).
- [9] Gujarat Bottling Co. Ltd. V. Coca Cola Co., (1995) 5 SCC 545 (India).
- [10] Best Sellers Retail (India) Pvt. Ltd. V. Aditya Birla Nuvo Ltd., (2012) 6 SCC 792 (India).
- [11] Dalpat Kumar v. Prahlad Singh, (1992) 1 SCC 719 (India).
- [12] Gujarat Bottling Co. Ltd. V. Coca Cola Co., (1995) 5 SCC 545 (India).
- [13] Wander Ltd. V. Antox India Pvt. Ltd., 1990 Supp SCC 727 (India).
- [14] C.K. Takwani, *supra* note 4, at 430.
- [15] Morgan Stanley Mutual Fund v. Kartick Das, (1994) 4 SCC 225 (India).