

INTERLOCUTORY APPLICATIONS MANAGEMENT AND EXPEDITIOUS DISPOSAL

**Justice C.V. KARTHIKEYAN,
Madras High Court
National Judicial Academy
National Seminar on Bail and
Interlocutory Applications
10th December 2023 (P-1376)
Session 5**

INTERLOCUTORY APPLICATION

Civil Rules of Practice and Circular Orders,

Rule 2 (J)

- “Interlocutory application” means an application to the Court in any suit, appeal or proceeding already instituted in such Court, other than a proceeding for execution of a decree or order. The orders which are passed in those applications are called as interlocutory orders.

JUDICIOUS EXERCISE OF DISCRETION

1. Consideration of Facts and Law:

- Applying Precedent.
- Assessment of Evidence.

2. Application of Fairness and Equity:

- Fairness.
- Equity.

3. Avoidance of Bias:

- Unbiased Decision-Making.

4. Public Interest and Legal Principles:

- Public Interest.
- Legal Principles.

5. Case-by-Case Assessment:

- Individualized Approach.

6. Accountability and Transparency:

- Justification of Decisions

PREVENTION OF ABUSE OF PROCESS

1. Doctrine of Abuse of Process:

- Malicious Prosecution.
- Vexatious Litigation.
- Improper Motives.
- Excessive Delay.

2. Judicial Oversight and Control:

- Case Management.
- Discretionary Powers.

3. Principles Upheld:

- Fairness and Justice.
- Equality Before the Law.
- Presumption of Innocence

4. Legal Remedies:

- Striking Out Claims.
- Cost Orders.
- Stay of Proceedings.

5. Public Interest:

- Maintaining Public Confidence.
- Ensuring Efficiency.

IMPOSITION OF COSTS

1. Deterrence:

- Penalizing Misconduct.
- Deterring Abuse.

2. Compensation and Fairness:

- Compensation for Expenses.
- Restoring Balance.

3. Judicial Discretion:

- Discretionary Power.
- Considering Conduct.

4. Types of Costs:

- Litigation Costs.
- Standard Costs.
- Exemplary Costs

5. Purpose:

- Promoting Settlement.
- Ensuring Fairness.

LIMITATIONS AND EXCEPTIONS

- **Financial Hardship:** Courts may consider a party's financial situation when deciding on costs.
- **Partial Recovery:** The winning party may not recover the full extent of their legal expenses.
- **Complexity of the Case:** In complex cases, courts may be more prudent in awarding costs due to the inherent difficulties involved in the issues in the suit.

Characteristics of an Interlocutory Injunction

- **Temporary Nature:** It is issued during the intermediate stages of a legal proceeding and remains in force until the trial is concluded or until further orders from the court.
- **Preserves Status Quo:** It maintains or restores the situation as it was before the dispute arose, preventing any irreversible harm until the court makes a final decision.
- **Protective Measure:** It is typically used to prevent immediate or irreparable harm or loss during the course of the legal action.
- **Conditions and Restrictions:** The court may impose specific conditions or limitations while granting the injunction, ensuring that the parties involved adhere to certain requirements or refrain from certain actions.
- **Subject to Modification or Discharge:** An interlocutory injunction can be modified, discharged, or varied by the court based on changing circumstances or new evidence presented during the course of the proceedings.

Purpose of Interlocutory Injunctions

- **Preservation of Rights:** To prevent the destruction of rights or assets before the final determination of the case.
- **Prevention of Irreparable Harm:** To avoid irreparable harm or damage that cannot be adequately compensated by monetary compensation.
- **Maintaining Fairness:** To maintain fairness between the parties during the legal process.

Conditions for Granting an Interlocutory Injunction

- **Prima Facie Case:** The party seeking the injunction must demonstrate a strong likelihood of success on the merits of the case.
- **Balance of Convenience:** The court considers which party would suffer greater harm if the injunction is granted or denied.
- **Irreparable Harm:** The party seeking the injunction must show that damages or harm cannot be adequately compensated through monetary remedies.

Ramrameshwari Devi v. Nirmala Devi [(2011) 8 SCC 249]
&
Maria Margarida Sequeira Fernandes v. Erasmo Jack de Sequeira [(2012) 5 SCC 370]

- Who is owner of property ?
- Who is in possession of title documents ?
- Identity of claimant to possession.
- Date of entry into possession.
- How claimant came into possession ? Purchase/Lease/etc.
- Who are in possession along with claimant ?
- Subsequent conduct.
- Basis of claim to continue to be in possession.
- Restitution or actual or realistic costs if false claim/pleadings laid.

INTERLOCUTORY INJUNCTIONS

1. Prohibitory Injunction
2. Mandatory Injunction
3. Freezing Injunction (Mareva Injunction)
4. Search Orders (Anton Piller Orders)
5. Interim Injunction
6. Continuing Injunction
7. Specific Performance
8. Conditional Injunction

Case laws

- 1. *KISHORE KUMAR KHAITAN VS PRAVEEN KUMAR SINGH (2006) 3 SCC 312*** : Guidelines to be followed before issuing direction to maintain Status Quo.
- 2. *HEINZ ITALIA VS DABUR INDIA LTD (2007) 6 SCC 1***: Effect of Delay/Laches/Limitation in initiation of action for passing off.
- 3. *SHYAM SEL AND POWER LIMITED AND ANOTHER VS SHYAM STEEL INDUSTRIES LIMITED (2023) 1 SCC 634*** : Tests for quality of finality in Interlocutory Orders.

4. NEON LABORATORIES LTD., VS MEDICAL TECHNOLOGIES

LTD., (2016) 2 SCC 672 : Far reaching consequences of Temporary/Interim Injunctions in trade mark/intellectual property matters and permissibility/grounds for interference by appellate Courts.

5. NAGAR PARISHAD RATNAGIRI VS GANGARAM NARAYAN

AMBEKAR AND OTHERS (2020) 7 SCC 275 : Burden of proof and pleadings in Quia Timet action (apprehended damage) and maintainability of injunction suit without seeking declaration.

DRAFTING OF INTERLOCUTORY ORDERS

1. Introduction:

- **Court Details:** Name of the court, case number, and parties involved.
- **Title of the Order:** Clearly stating that it's an interlocutory order.

2. Recitals:

- **Background:** Briefly summarize the background facts leading to the application for the order.
- **Legal Basis:** Refer to the relevant law or statutes under which the application is made.
- **Purpose:** Describe the purpose or reasons for granting the order.

3. Operative Part:

- **Granting Relief:** Clearly state the relief granted (prohibitory, mandatory, etc.).
- **Specific Actions:** Outline specific actions or prohibitions imposed on the parties.
- **Duration:** Specify the duration or validity of the order (until trial, specific date, etc.).

4. Conditions and Exceptions:

- **Conditions, if any:** If the order is subject to conditions, clearly state these conditions.
- **Exceptions:** Specify any exceptions or limitations to the order, if applicable.

5. Legal Language and Clarity:

- **Clarity and Precision:** Use clear, unambiguous language to avoid misinterpretation or confusion.
- **Standard Legal Terminology:** Follow standard legal terminology and formatting.

6. Signature and Date:

- **Judge's Signature:** Ensure the order is signed by the judge or judicial officer.
- **Date:** Include the date when the order is issued.

7. Compliance and Service:

- **Service Requirement:** Specify how the order should be served on the parties involved.
- **Compliance Deadline:** Set a deadline for compliance with the order.

8. Additional Notes:

- **Attachments or Exhibits:** If there are any attachments or exhibits referenced in the order, ensure they are accurately referenced and attached.
- **Notification Requirement:** If the order requires notification or reporting to the court, specify these requirements

9. Review and Proofreading:

- **Thorough Review:** Ensure the order accurately reflects the court's decision and complies with legal requirements.
- **Proofreading:** Check for any typographical errors, inconsistencies, or ambiguities.

Thank You!!!