

INTERIM ORDERS AND JUDICIAL DISCRETION

JUSTICE N.ANAND VENKATESH
JUDGE, HIGH COURT OF MADRAS



NATURE OF JUDICIAL DISCRETION

- “*LOOSE, ILL-CONCEIVED SYMPATHY MASQUERADES AS INTERLOCUTORY JUSTICE EXPOSING JUDICIAL DISCRETION TO THE CRITICISM OF DEGENERATING INTO PRIVATE BENEVOLENCE*” DECISIONS ON MATTERS RELEVANT TO BE TAKEN INTO ACCOUNT AT THE INTERLOCUTORY STAGE CANNOT BE DEFERRED OR DECIDED LATER WHEN SERIOUS COMPLICATIONS MIGHT ENSUE FROM THE INTERIM ORDER ITSELF- *GURU NANAK DEV UNIVERSITY V. PARMINDER KR. BANSAL*, (1993) 4 SCC 401
- JUDICIAL DISCRETION CANNOT BE GUIDED BY EXPEDIENCY. COURTS ARE NOT FREE FROM STATUTORY FETTERS. JUSTICE IS TO BE RENDERED IN ACCORDANCE WITH LAW. JUDGES ARE NOT ENTITLED TO EXERCISE DISCRETION WEARING THE ROBES OF JUDICIAL DISCRETION AND PASS ORDERS BASED SOLELY ON THEIR PERSONAL PREDILECTIONS AND PECULIAR DISPOSITIONS. JUDICIAL DISCRETION WHEREVER IT IS REQUIRED TO BE EXERCISED IN ACCORDANCE WITH LAW AND LEGAL PRINCIPLES. *MI. BUILDERS (P) LTD V. RADHEY SHYAM SAHU* (1999) 6 SCC 464

RECOUNTING THE PRINCIPLES OF INTERIM RELIEF

- AN INTERIM RELIEF CAN BE GRANTED ONLY IN AID OF FINAL RELIEF. (*STATE OF ORISSA V MADAN GOPAL RUNGTA*, AIR 1951 SC 12)
- GENERAL PRINCIPLE IS THAT INTERIM RELIEF CANNOT BE GRANTED IF IT WOULD HAVE THE EFFECT OF GRANTING THE FINAL RELIEF. EXCEPTION IS A CASE WHERE WITHHOLDING SUCH RELIEF WOULD HAVE THE EFFECT OF RENDERING THE PETITION INFRUCTUOUS. THE APPLICATION MUST, IN ADDITION, SHOW A STRONG PRIMA FACIE CASE, BALANCE OF CONVENIENCE AND IRREPARABLE INJURY -*DEORAJ V. STATE OF MAHARASHTRA*, (2004) 4 SCC 697
- WHERE NO RELIEF IS GRANTED AT THE FINAL STAGE THE COURT SHOULD PASS ORDERS NEUTRALIZING THE EFFECT OF ANY INTERIM ORDER PASSED AT THE INTERLOCUTORY STAGE. THE POSITION REMAINS THE SAME WHEN INTERIM ORDERS ARE SECURED, AND THE LITIGANT THEN SEEKS TO WITHDRAW THE MAIN PETITION. (*KALABHARATI ADVERTISING V HEMANT VIMALNATH* 2010 2 SCC 437)

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- WHERE THE PETITION IS WITHDRAWN THE COURT SHOULD NOT CONTINUE THE INTERIM ORDER. HOWEVER, WHERE THE MATTER HAS BEEN HEARD OUT AND IS THEN WITHDRAWN THE HIGH COURT MAY CONTINUE THE INTERIM ORDER FOR A LIMITED PERIOD SO AS TO ENABLE THE PETITIONER TO APPROACH THE APPROPRIATE FORUM (*HOTEL QUEEN ROAD (P) LTD. V. RAM PARSHOTAM MITTAL*, (2014) 13 SCC 646)
 - A COURT WHILE EXERCISING ITS JUDICIAL FUNCTION WOULD ORDINARILY NOT PASS AN ORDER WHICH WOULD MAKE ONE OF THE PARTIES TO THE *LIS* VIOLATE A LAWFUL ORDER PASSED BY ANOTHER COURT (*PRABHJOT SINGH MAND (I) V. BHAGWANT SINGH*, (2009) 9 SCC 435)
 - THE COURT MUST NOT GIVE ANY CONCRETE FINDINGS ON THE MERITS OF THE MATTER AT THE INTERIM STAGE- *UNION OF INDIA V. KINDRAN*

INTERIM ORDERS – ORIGINAL SIDE

- ABJ - ORDER XXXVIII RULE 5 – ATTACHMENT BEFORE JUDGMENT CANNOT BE GRANTED ROUTINELY. THE PLAINTIFF MUST MAKE OUT A STRONG PRIMA FACIE CASE.. THE LEADING CASE ON THE POINT IS *RAMAN TECH & PROCESS ENGG V SOLANKI TRADERS* -2008 2 SCC 302
- INJUNCTIONS – ORDER XXXIX RULE 1 AND 2 – THE TRIPLE TEST OF (A) PRIMA FACIE CASE (B) BALANCE OF CONVENIENCE AND IRREPARABLE LOSS OR INJURY (SEE *KASHI MATH SAMSTHAN V. SHRIMAD SUDHINDRA THIRTHA SWAMY*, (2010) 1 SCC 689)
- RECEIVERS – ORDER XL CPC – IS ONE OF THE HARSHTEST INTERLOCUTORY REMEDIES THE PANCH SADACHAR OR FIVE PRINCIPLES ARE SET OUT IN *KRISHNASWAMY V THANGAVELU*, AIR 1955 MAD 430. THE APPLICANT MUST MAKE OUT AN EXCELLENT CASE. A RECEIVER WILL NOT BE APPOINTED WHEN IT WILL HAVE THE EFFECT OF DEPRIVING THE DEFENDANT OF DE-FACTO POSSESSION.
- SECTION 75 CPC & ORDER XXVI – APPOINTMENT OF COMMISSIONERS FOR

INJUNCTIONS – GENERAL CONSIDERATIONS

- THE OBJECT OF AN INTERLOCUTORY INJUNCTION IS TO PROTECT THE PLAINTIFF AGAINST INJURY BY VIOLATION OF HIS RIGHT FOR WHICH HE COULD NOT BE ADEQUATELY COMPENSATED IN DAMAGES IF THE CASE WERE RESOLVED IN HIS FAVOUR AT THE TRIAL. THE NEED FOR SUCH PROTECTION HAS, HOWEVER, TO BE WEIGHED AGAINST THE CORRESPONDING NEED OF THE DEFENDANT TO BE PROTECTED AGAINST INJURY RESULTING FROM HIS HAVING BEEN PREVENTED FROM EXERCISING HIS OWN LEGAL RIGHTS FOR WHICH HE COULD NOT BE ADEQUATELY COMPENSATED. THE COURT MUST WEIGH ONE NEED AGAINST ANOTHER AND DETERMINE WHERE THE “BALANCE OF CONVENIENCE” LIES - *GUJARAT BOTTLING CO. LTD. V. COCA COLA CO.*, (1995) 5 SCC 545.
- AS WITH ALL DISCRETIONARY RELIEF, THE FACTS PLAY A CRUCIAL ROLE IN GUIDING THE EXERCISE OF DISCRETION. THE CONDUCT OF A PARTY IS ALSO A MATERIAL CONSIDERATION. SUPPRESSION OF FACTS, LACHES ETC DISENTITLES THE GRANT OF DISCRETIONARY AD-INTERIM RELIEF.
- AN INJUNCTION IS GRANTED IN AID OF A RIGHT. THEREFORE, THE QUESTION OF ITS GRANT DOES NOT ARISE WHEN THERE DOES NOT EXIST A RIGHT TO PROTECT. SECTION 41 OF THE SPECIFIC RELIEF ACT ENUMERATES A GENERAL CLASS OF CASES WHERE AN INJUNCTION INTERIM OR PERMANENT CANNOT BE GRANTED.

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- **Money suits** – AN INJUNCTION RESTRAINING ALIENATION OF PROPERTY BELONGING TO A DEFENDANT IS NOT GRANTED IN MONEY SUITS FOR THE REASON THAT THE CLAIM IS ONE FOR RECOVERY OF MONEY AND THE PLAINTIFF HAS NO RIGHT OVER THE PROPERTY OF THE PLAINTIFF THAT REQUIRES PROTECTION. APPROPRIATE RELIEF WOULD BE UNDER ORDER 38 RULE 5. AN ALIENATION MADE IN VIOLATION OF AN ATTACHMENT IS VOID (SEE SEC 64 CPC).
 - **Specific Performance** – THOUGH LIS PENDENS WOULD OPERATE, INJUNCTION WILL BE GRANTED TO MAINTAIN THE STATUS QUO IN RESPECT OF THE CHARACTER OF THE PROPERTY SINCE ANY CONSTRUCTIONS ETC BY THIRD PARTIES MAY ULTIMATELY COMPLICATE THE EXECUTION OF THE SPECIFIC PERFORMANCE DECREE- *JULIEN EDUCATIONAL TRUST V. SOURENDRA KUMAR ROY*, (2010) 1 SCC 379. HOWEVER, LACHES IS A RELEVANT CONSIDERATION FOR WITHHOLDING AN INTERIM ORDER IN A CASE FOR SPECIFIC PERFORMANCE - *MOTILAL JAIN V. RAMDASI DEVI*, (2000) 6 SCC 420.

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- **Partition suits** – A CO-OWNER IS NOT ENTITLED TO AN INJUNCTION RESTRAINING THE OTHER CO-OWNER FROM EXERCISING HIS RIGHTS IN THE COMMON PROPERTY ABSOLUTELY AND SIMPLY ON THE GROUND OF CO-OWNERSHIP. HOWEVER, A LIMITED INJUNCTION CAN BE GRANTED TO PROTECT THE EXCLUSIVE POSSESSION OF A CO-SHARER PENDING THE SUIT – SEE *TANUSREE BASU V. ISHANI PRASAD BASU*, (2008) 4 SCC 791.
 - **Suits for Possession** - THE GENERAL PRINCIPLE IS SET OUT IN *Maharwal Khewaji Trust (Regd.) v. Baldev Dass*, (2004) 8 SCC 488 WHEREIN IT WAS HELD THAT THE COURT SHOULD NOT PERMIT THE NATURE OF THE PROPERTY BEING CHANGED WHICH ALSO INCLUDES ALIENATION OR TRANSFER OF THE PROPERTY WHICH MAY LEAD TO LOSS OR DAMAGE BEING CAUSED TO THE PARTY WHO MAY ULTIMATELY SUCCEED AND MAY FURTHER LEAD TO MULTIPLICITY OF PROCEEDINGS.
 - **Intellectual Property Cases** – A PRIMA FACIE CASE OF DISHONESTLY ATTEMPTING TO PASS OFF GOODS IS A GOOD GROUND FOR GRANT OF AN INJUNCTION. MERE DELAY IN BRINGING THE MATTER TO THE COURT IS NOT A GROUND TO REFUSE INTERIM RELIEF IN SUCH CASES – *Heinz Italia v. Dabur India Ltd.*, (2007) 6 SCC 1

INTERIM MANDATORY INJUNCTIONS

DORAB CAWASJI WARDEN V. COOMI SORAB WARDEN, (1990) 2 SCC 117

- THE RELIEF OF INTERLOCUTORY MANDATORY INJUNCTIONS ARE GRANTED TO PRESERVE OR RESTORE THE STATUS QUO OF THE LAST NON-CONTESTED STATUS WHICH PRECEDED THE PENDING CONTROVERSY UNTIL THE FINAL HEARING WHEN FULL RELIEF MAY BE GRANTED OR TO COMPEL THE UNDOING OF THOSE ACTS THAT HAVE BEEN ILLEGALLY DONE OR THE RESTORATION OF THAT WHICH WAS WRONGFULLY TAKEN FROM THE PARTY COMPLAINING.
- TEST : (A) THE PLAINTIFF HAS A STRONG CASE FOR TRIAL. THE THRESHOLD IS HIGHER THAN A PRIMA FACIE CASE THAT IS NORMALLY REQUIRED FOR A PROHIBITORY INJUNCTION. ((B) IT IS NECESSARY TO PREVENT IRREPARABLE OR SERIOUS INJURY WHICH NORMALLY CANNOT BE COMPENSATED IN TERMS OF MONEY. (C) BALANCE OF CONVENIENCE IS IN FAVOR OF THE APPLICANT
- ALSO SEE *SAMIR NARAIN BHOJWANI V. AURORA PROPERTIES &*

OTHER TYPES OF INTERIM ORDERS

- **Mareva Injunction** - TAKES ITS NAME FROM THE *MAREVA COMPANIA NAVIERA S.A. V. INTERNATIONAL BULK CARRIES LTD* [1975 2 LLOYDS REP 509]. THEY ARE NOW COMMONLY KNOWN AS FREEZING INJUNCTIONS OPERATES BY FREEZING THE DEFENDANT'S ASSETS (COMMONLY FUNDS IN A BANK ACCOUNT) IN ORDER TO MAKE SUCH ASSETS AVAILABLE FOR SATISFACTION OF A FUTURE JUDGMENT, PROVIDED OF COURSE THE APPLICANT SUCCEEDS IN THE SUBSTANTIVE PROCEEDINGS. (SEE *MOHIT BHARGAVA V. BHARAT BHUSAN BHARGAVA* REPORTED IN [(2007) 4 SCC 795].
- **Anton Piller Order** – TAKES ITS NAME FROM THE *ANTON PILLER K.G. V. MANUFACTURING PROCESS LTD.*, CASE [1976 RPC 719], AND IS PASSED SO AS TO PRESERVE EVIDENCE WHICH IS IN POSSESSION OF THE DEFENDANT AND THERE IS A STRONG LIKELIHOOD THAT THE DEFENDANT MAY DESTROY SUCH EVIDENCE PENDING DETERMINATION OF THE CAUSE. COMMONLY USED IN IP CASES (FOR THE RELEVANT TEST – SEE *BUCYRUS EUROPE LIMITED V. VULCAN INDUSTRIES ENGINEERING COMPANY PRIVATE LIMITED*, (2005) 30 PTC 279

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- JOHN DOE ORDERS – IP VIOLATORS IN CYBER SPACE WHO CANNOT BE IDENTIFIED ARE SYMBOLICALLY REPRESENTED BY A FICTITIOUS NAME “JOHN DOE” WHICH IN INDIA IS AN “ASHOK KUMAR” ORDER (SEE *R.K. PRODUCTIONS PVT LTD V. BHARAT SANCHAR NIGAM LIMITED*, (2012) 5 LW 626).
 - A ‘DYNAMIC INJUNCTION’ REFERS TO AN INJUNCTION ORDER WHICH IS NOT STATIC BUT DYNAMIC, AND IS COMMONLY USED IN IP CASES (PARTICULARLY COPYRIGHT CASES CONCERNING ROGUE WEBSITES). THOUGH THE FIRST INJUNCTION ORDER MAY BE APPLICABLE ONLY TO ONE WEBSITE, IF MIRROR WEBSITES ARE CREATED, THE INJUNCTION WOULD DYNAMICALLY APPLY TO THE SAID MIRROR WEBSITES AS WELL. THE COPYRIGHT OWNER IS MERELY REQUIRED TO BRING THE FACTUM OF CREATION OF A MIRROR WEBSITE TO THE NOTICE OF THE REGISTRAR BY WAY OF AN AFFIDAVIT/APPLICATION AND THE INJUNCTION WOULD THEN AUTOMATICALLY EXTEND TO THE MIRROR/REDIRECT WEBSITE. (DISNEY ENTERPRISE V MI LTD (2018) SGHC 206)

INTERIM ORDERS - APPELLATE SIDE

- **Appeals against interim orders** (ORDER 43 CPC) – INTERFERENCE IS PERMISSIBLE ONLY IF THERE IS GROSS OR PALPABLE PERVERSITY IN EXERCISE OF DISCRETION. NO INTERFERENCE IF THE VIEW TAKEN IS A POSSIBLE ONE – *MOHD MEHTAB KHAN V KUSHNUMA IBRAHIM KHAN, 2013 9 SCC 221*
- **First Appeals** – ORDER 41 RULE 5(1) MAKES IT CLEAR THAT THERE IS NO AUTOMATIC STAY OF THE DECREE OF THE TRIAL COURT UPON FILING A FIRST APPEAL. THUS, THERE IS NO BAR TO THE DECREE HOLDER EXECUTING THE DECREE IF THERE IS NO INTERIM ORDER STAYING/SUSPENDING THE OPERATION OF THE DECREE. STAY OF EXECUTION CAN BE GRANTED UPON SHOWING “SUFFICIENT CAUSE”. AS TO WHAT IS A “SUFFICIENT CAUSE” SEE- *ATMA RAM PROPERTIES V FEDERAL MOTORS 2005 1 SCC 705*. GRANT OF STAY MUST PASS THE TRIPLE REQUIREMENTS OF ORDER 41 RULE 5(3)
- **Second Appeals** – THE HIGH COURT HAS NO POWER TO PASS AN INTERIM ORDER IN A SECOND APPEAL UNLESS THE APPEAL IS ADMITTED ON A SUBSTANTIAL QUESTION OF LAW UNDER SECTION 100 CPC (*RAGHAVENDRA SWAMI MUTT V UTTARADI MUTT – 2016 11 SCC 235*).

INTERIM ORDERS – PETITIONS UNDER ARTICLE 227

- INTERFERENCE WITH INTERIM ORDERS PASSED BY TRIAL COURTS IS PERMISSIBLE IF A CASE OF PERVERSITY OR ERROR OF JURISDICTION IS MADE OUT. HIGH COURT CAN NOT ONLY SET ASIDE THE ORDER BUT CAN ALSO PASS APPROPRIATE ORDERS WHICH THE TRIAL COURT OUGHT TO HAVE PASSED IN THE GIVEN SET OF FACTS. (*INDUSTRIAL CREDIT AND INVESTMENT CORPN. OF INDIA LTD. V. GRAPCO INDUSTRIES LTD.*, (1999) 4 SCC 710).
- GROUNDS FOR INTERFERENCE WITH INTERIM ORDERS – (A) JURISDICTIONAL ERRORS (B) ERRORS WITHIN JURISDICTION CAN ALSO BE CORRECTED - FOR INSTANCE, WHERE THE COURT ASKS ITSELF THE WRONG QUESTION OR APPROACHES THE QUESTION IN AN IMPROPER MANNER OR FAILS TO ASSIGN REASONS TO SUPPORT ITS CONCLUSIONS – THE FINDING OF FACT CAN BE INTERFERED WITH UNDER ARTICLE 227 - *KISHORE KUMAR KHAITAN V. PRAVEEN KUMAR SINGH*, (2006) 3 SCC 312

INTERIM ORDERS – MONEY DECREES

- ORDER 41 RULE 1(3) – INSERTED IN 1976- REQUIRES THAT WHERE THE DECREE IS ONE FOR MONEY THE APPELLATE COURT SHALL DIRECT THE APPELLANT TO DEPOSIT THE AMOUNT DISPUTED IN THE APPEAL OR FURNISH SECURITY IN RESPECT THEREOF. THUS, AS A GENERAL PRINCIPLE A MONEY DECREE CANNOT BE STAYED UNCONDITIONALLY HAVING REGARD TO THE LEGISLATIVE INTENT IN INSERTING SUB-RULE 3 OF ORDER 41 RULE 1. AN EXCEPTIONAL CASE HAS TO BE MADE OUT FOR STAY OF EXECUTION OF A MONEY DECREE - *MALWA STRIPS (P) LTD. V. JYOTI LTD.*, (2009) 2 SCC 426
- THE APPROPRIATE COURSE WOULD BE TO PASS A CONDITIONAL ORDER OF STAY PUTTING THE APPELLANT ON TERMS. (SEE *MANOHAR INFRASTRUCTURE & CONSTRUCTIONS (P) LTD. V. SANJEEV KUMAR SHARMA*, (2022) 8 SCC 474 – PARA 14)

INTERIM ORDERS – ARBITRATION MATTERS

- SECTIONS 9 & 17 OF THE A & C ACT. THE LAW AS IT STANDS TODAY, ENABLES THE ARBITRAL TRIBUNAL TO GRANT THE SAME INTERIM RELIEF AS THE COURT AND THE REMEDY UNDER SECTION 17 IS AS EFFICACIOUS AS THE REMEDY UNDER SECTION 9(1).
- THE COURT SHOULD NOT CONTINUE TO TAKE UP APPLICATIONS FOR INTERIM RELIEF, ONCE THE ARBITRAL TRIBUNAL IS CONSTITUTED AND IS IN SEISIN OF THE DISPUTE BETWEEN THE PARTIES, UNLESS THERE IS SOME IMPEDIMENT IN APPROACHING THE ARBITRAL TRIBUNAL, OR THE INTERIM RELIEF SOUGHT CANNOT EXPEDITIOUSLY BE OBTAINED FROM THE ARBITRAL TRIBUNAL - *ARCELORMITTAL NIPPON STEEL (INDIA) LTD. V. ESSAR BULK TERMINAL LTD.*, (2022) 1 SCC 712
- THE POWER OF THE COURT UNDER SECTION 9 IS NOT STRICTLY CIRCUMSCRIBED BY THE PROVISIONS OF THE CPC – (SEE FOR INSTANCE *ESSAR HOUSE PRIVATE LIMITED V ARCELLOR MITTAL*, 2022 SCC ONLINE SC 1219 WHEREIN IT WAS HELD THAT THE TECHNICAL REQUIREMENT OF PLEADINGS UNDER ORDER 38 RULE 5 CANNOT BE IMPORTED INTO SECTION

SECTION 34 & APPEALS UNDER SECTION 37

- EARLIER RULE OF AUTOMATIC STAY OF THE ARBITRAL AWARD UPON FILING OF THE PETITION UNDER SECTION 34 HAS NOW BEEN DONE AWAY. THE AMENDED SECTION 36 NOW MAKES IT MANDATORY FOR THE COURT TO PASS A REASONED ORDER GRANTING STAY. THE 2015 AMENDMENT TO SECTION 36 HAS BEEN CONSTRUED TO BE RETROSPECTIVE IE., THEY WOULD APPLY TO ALL PETITIONS PENDING ON THE DATE OF THE COMING INTO FORCE OF THE AMENDMENT (SEE KOCHI CRICKET V BCCI, 2018 6 SCC 287)
- AN ARBITRAL AWARD FOR PAYMENT OF MONEY CANNOT BE STAYED UNCONDITIONALLY EVEN IF THE APPELLANT IS THE GOVERNMENT. THE EXEMPTION GRANTED UNDER ORDER 27 RULE 8A DOES NOT APPLY TO APPEALS UNDER THE ARBITRATION ACT. (PAM DEVELOPMENTS PRIVATE LIMITED V STATE OF WEST BENGAL, 2019 8 SCC 112). ALSO SEE SECTION 36(3) OF THE A & C ACT.
- VIDE THE 2021 AMENDMENTS, AN UNCONDITIONAL STAY IS PERMISSIBLE IF (A) THE ARBITRATION AGREEMENT OR CONTRACT OR THE MAKING OF THE AWARD IS INDUCED BY FRAUD OR CORRUPTION.

INTERIM ORDERS – WRIT PETITIONS

- IN MATTERS OF PUBLIC LAW, THE HIGH COURT MUST NOT ONLY CONSIDER WHETHER THERE EXISTS A PRIMA FACIE CASE, BALANCE OF CONVENIENCE AND IRREPARABLE INJURY BUT MUST ALSO SEE WHETHER THE GRANT OF AN INTERIM ORDER WOULD AFFECT PUBLIC INTEREST (*PRABHJOT SINGH MAND (I) V. BHAGWANT SINGH*, (2009) 9 SCC 435).
- UPON PASSING OF THE FINAL ORDER – THE DOCTRINE OF MERGER APPLIES AND THE INTERIM ORDER CEASES TO EXIST AS IT MERGES WITH THE FINAL ORDER – *BPL V SUDHAKAR* – 2004 7 SCC 219
- NO INTERIM ORDERS CAN BE PASSED WHERE THE WRIT PETITION IS HELD TO BE NOT MAINTAINABLE - *BHARAT COKING COAL LTD. V. INDIAN NEWSPAPER SOCIETY*, (2011) 14 SCC 140
- IN A CONSTITUTIONAL CHALLENGE TO A LEGISLATION AN ORDER OF STAY CAN BE GRANTED IF THE ENACTMENT IS EX-FACIE UNCONSTITUTIONAL AND PUBLIC INTEREST REQUIRES SUCH A COURSE - *JAISHRI LAXMANRAO PATIL V. STATE OF MAHARASHTRA*, (2021) 2 SCC 785

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- INTERFERENCE IN REVENUE MATTERS IS NOT ADVISABLE UNLESS A CLEAR CASE OF ILLEGALITY IS MADE OUT AND THE BALANCE OF CONVENIENCE IS IN FAVOR OF SUCH A COURSE. THE HIGH COURT HAS TO EXAMINE THE IMPACT OF ITS ORDER ON THE RIGHT OF THE STATE TO COLLECT REVENUES LEGITIMATELY DUE TO IT. - *STATE OF M.P. V. M.V. VYAVSAYA & CO.*, (1997) 1 SCC 156
 - STAY OF RECOVERY OF MUNICIPAL TAX ETC - COURTS SHOULD BE VERY SLOW TO INTERFERE. AN ORDER OF STAY CANNOT BE GRANTED MERELY BECAUSE A PRIMA FACIE CASE EXISTS- *MCD V. C.L. BATRA*, (1994) 5 SCC 355
 - INTERFERENCE IN CONTRACTUAL MATTERS MUST BE LIMITED. THE HIGH COURT HAS TO WEIGHT THE CONSEQUENCES ON PUBLIC INTEREST, AND MUST NECESSARILY SET OUT REASONS. (RAJASTHAN STATE WAREHOUSING CORPN V STAR AGRIWAREHOUSING 2020 SCC ONLINE SC 538).
 - SIMILARLY, INTERFERENCE IN ELECTION MATTERS MUST ALSO BE SLOW - *RAW YASHWANT BHOIR V. DISTRICT COLLECTOR, RAIGAD*, (2012) 4 SCC 407

INTERIM ORDERS - INTRA COURT APPEALS

- AN INTRA COURT APPEAL IS NOT AN APPEAL AGAINST THE ORDER OF A SUBORDINATE COURT. THE HIGH COURT, AS A COURT OF CORRECTION, CORRECTS ITS OWN ORDERS IN EXERCISE OF THE SAME JURISDICTION AS WAS VESTED IN THE SINGLE BENCH. SUCH IS NOT AN APPEAL AGAINST AN ORDER OF A SUBORDINATE COURT. IN SUCH APPELLATE JURISDICTION THE HIGH COURT EXERCISES THE POWERS OF A COURT OF ERROR -*BADDULA LAKSHMAIAH V. SRI ANJANEYA SWAMI TEMPLE*, (1996) 3 SCC 52
- INTERFERENCE IN DISCRETIONARY INTERIM ORDERS - AS LONG AS THE VIEW OF THE SINGLE JUDGE WAS A POSSIBLE VIEW THE APPELLATE COURT SHOULD NOT INTERFERE- *MOHD. MEHTAB KHAN V. KHUSHNUMA IBRAHIM*, (2013) 9 SCC 221
- IN IP CASES – DISCRETIONARY JURISDICTION TO GRANT INTERIM ORDERS WOULD NOT BE LIGHTLY INTERFERED WITH SAVE IN CASES WHERE THERE IS PALPABLE PERVERSITY, *NEON LABORATORIES – 2016 2 SCC 672*

EXECUTION PETITIONS

- TAKING NOTE OF THE DIFFICULTIES OF THE LITIGANT IN EXECUTING DECREES THE SUPREME COURT HAS ISSUED DIRECTIONS IN *Rahul S. Shah v. Jinendra Kumar Gandhi*, (2021) 6 SCC 418.
- THE GUIDELINES ISSUED THEREIN HAVE THE FORCE OF LAW UNDER ARTICLE 141. THE EXECUTING COURT IS NOW REQUIRED TO DISPOSE AN EXECUTION PROCEEDINGS WITHIN SIX MONTHS FROM THE DATE OF FILING, WHICH MAY BE EXTENDED ONLY BY RECORDING REASONS IN WRITING FOR SUCH DELAY. THUS, THIS OBLIGATION ON THE EXECUTION COURT MUST WEIGH WITH THE HIGH COURT WHILE GRANTING INTERIM ORDERS STAYING EXECUTION PROCEEDINGS.
- IN MATTERS CONCERNING DISPOSSESSION, THE HIGH COURT CAN STAY THE DECREE ON TERMS. IT CAN IMPOSE REASONABLE CONDITIONS. *STATE OF MAHARASHTRA V. SUPER MAX INTERNATIONAL (P) LTD.*, (2009) 9 SCC 772

MISCELLANEOUS ISSUES

- AN INTERIM ORDER CANNOT BE GRANTED IN AN APPEAL FILED WITH DELAY WITHOUT CONDONING THE DELAY – *STATE OF W.B V SOMDEB BANDYOPADHYAY, 2009 2 SCC 694*
- EX-PARTE INTERIM ORDERS GRANTED AND VACATE STAY PETITIONS NOT DECIDED WITHIN 14 DAYS AS REQUIRED UNDER ARTICLE 226(3)- INTERIM ORDERS WOULD NOT CEASE TO OPERATE. ARTICLE 226(3) IS DIRECTORY. (*DR. T. GNANASAMBANTHAN V THE DIRECTOR, 2014 2 CTC 549*).
- WHEN A SUIT IS DISMISSED AND IS LATER RESTORED TO FILE INTERIM ORDERS, IF ANY, WOULD AUTOMATICALLY REVIVE UNLESS THE ORDER OF RESTORATION EXPRESSLY OR BY IMPLICATION EXCLUDES THE OPERATION OF THE INTERIM ORDER – *VAREED JACOB V SOSAMMA GEEVARGHESE, 2004 6 SCC 378*