

Injunctions in Indian Civil Litigation: A Critical Analysis of Judicial Discretion and Equitable Remedies

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ABSTRACT: Injunctions are one of the most valuable preventative reliefs under the civil laws of India wherein the court can prevent the commission of a wrong before any irremediable injury happens, in order to protect the legal as well as the equitable rights of the claimant. In contrast to money compensation, which offers relief once the legal wrong happens, the purpose of injunction is to maintain the status quo and to protect the subject matter of the dispute from injury during the time of litigation. Injunction being an equitable relief, discretionary power of the court becomes an important aspect in deciding the issue.

This report analyzes the legal framework of injunction in Indian civil law with emphasis on judicial discretion and equitable reliefs. It explains the nature of the concept of injunction, the statutory provisions in the Specific Relief Act, 1963 and Code of Civil Procedure, 1908, and the different types of injunctions provided under Indian laws. This report also considers the criteria involved in issuing injunctions such as the existence of a prima facie case, balance of convenience, irreparable injury, etc. Further, this report discusses some of the landmark judicial decisions pertaining to the law of injunctions, the problems faced in relation to delay in proceedings, abuse of the remedy of injunction, forum shopping, and difficulties related to enforcement of injunctions, and compares it with the law of England and United States in this regard.

The study employs the methodological approach of legal doctrine using statutes, judicial precedent, legal commentary, and secondary literature. The study reveals that though there is a developed legal framework in India concerning the law of injunctions, timely judicial intervention and proper use of judicial discretion are very much necessary for the continued effectiveness of injunctions as a tool of administering civil justice.

KEYWORDS: Injunction, Judicial Discretion, Preventive Relief, Specific Relief Act, code of Civil Procedure, Civil Litigation, Equitable Remedies.

CHAPTER 1

INTRODUCTION

The civil justice system is not only concerned with solving disputes, but it is also meant to protect legal rights from being infringed. There may be situations when the mere grant of damages after an act is committed may not be sufficient since it might not adequately compensate for any injury caused. Moreover, there are situations where it is impossible to assess the actual amount of money that should be awarded for compensation for the damage done. To solve such a problem, the law provides preventive remedies which protect the legal rights of persons even before any damage can occur. In this regard, the law recognizes an injunction as one of the most important means to prevent any acts which might lead to an unjust situation.¹

An injunction is a preventive remedy which forces a defendant to refrain from committing some acts which are harmful or to perform his/her duties under the law in personam.² Thus, an injunction is quite different from other kinds of compensatory remedies since its primary goal is to prevent any damage rather than to compensate for any injury already inflicted on the plaintiff. It should be mentioned that the prevention of any acts is particularly important in civil disputes concerning property, contracts, commercial activities, intellectual property, environment, and other matters where preservation of the status quo until the legal issues are decided is crucial.³

The legislative basis for the use of injunction in civil proceedings in India consists of the Specific Relief Act of 1963 and the Code of Civil Procedure of 1908. While the Specific Relief Act regulates the substantive law in relation to the issue in question, the Code of Civil Procedure governs the procedure of temporary injunctions which can be granted during the process of a suit.⁴ However, the

¹ Specific Relief Act, 1963, No. 47 of 1963, ch. VII (India).

² Gujarat Bottling Co. Ltd. v. Coca Cola Co., (1995) 5 SCC 545

³ Specific Relief Act, 1963, §§ 36–42; Code of Civil Procedure, 1908, No. 5 of 1908, § 94 & Order XXXIX Rules 1– 3A (India).

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Specific Relief Act, 1963, §§ 36–42; Code of Civil Procedure, 1908, Order XXXIX Rules 1–3A.

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granting of the injunction does not necessarily happen automatically. To get this type of relief, it is necessary to consider the specific facts of the case and exercise discretion according to the law and judicial precedents.⁴ For many years the Supreme Court of India has had a very important part in developing the injunction jurisprudence through providing guidelines on how to decide about interim and permanent relief. It has been clarified that the granting of injunctions is possible only when it is necessary to do so to prevent any irreparable injury and preserve the subject of dispute.⁵

This report studies the legal framework of the use of injunction in India with particular emphasis on judicial discretion and equitable remedies. It considers the statute which regulates the issue in question, types of preventive relief, general principles of granting such relief, the role of judicial precedents in developing the injunction jurisprudence, as well as the problems that might arise during granting the relief.

CHAPTER 2

LEGISLATION REGULATING INJUNCTIONS

The law pertaining to injunctions in India is mainly controlled by two legislations, namely the Specific Relief Act, 1963 and the Code of Civil Procedure, 1908 (CPC). There is a harmonious relationship between these laws. The Specific Relief Act lays down the substantive law regarding the nature, scope, and circumstances wherein the grant of injunction can take place, and on the other hand, the Code of Civil Procedure lays down the procedure by which the power can be exercised during the course of the proceeding of the civil action.⁶

Statute	Relevant Provision	Purpose
Specific Relief Act, 1963	Sections 36–42	Governs substantive law of injunctions
CPC, 1908	Section 94	Interlocutory powers
CPC, 1908	Order XXXIX Rules 1–3A	Temporary injunction procedure

2.1 The Specific Relief Act, 1963

The Specific Relief Act, 1963 is the primary statute controlling injunctions in India. Chapter VII of the Act consisting of Sections 36 to 42 governs the remedy of preventive relief. Whereas damages compensate for a party after the legal wrong is committed, injunction prevents the commission of a legal wrong before any substantial damage takes place.⁷ Section 36 recognizes the relief of prevention of wrong as an injunction. Section 37 categorizes the injunction into a temporary or perpetual injunction. The temporary injunction is of limited duration or lasts till the disposal of the suit whereas the perpetual injunction is granted by a final decree after the rights of the parties have been decided.⁸ Section 38 enunciates the circumstances wherein the grant of a perpetual injunction takes place.

Under this section, the courts have the power to restrain the defendant from committing an act violating the legal or equitable rights of the plaintiff. But this remedy is generally granted only where damages are inadequate, or repetition of violation is expected.⁹ Section 39 pertains to mandatory injunctions where the court can order the performance of an act when such a remedy is necessary to prevent the breach of obligation. Due to the positive aspect of a mandatory injunction, great caution is exercised by the court while ordering this remedy.¹⁰

The Act regulates the exercise of this remedy under Sections 40 to 42. Section 40 enables the courts to order damages either in addition to or in substitution of injunction, while Section 41 provides the circumstances in which the remedy of injunction cannot be granted such as where an equally efficacious remedy exists or where the grant of the injunction will hinder lawful judicial proceedings. Section 42 enables the courts to enforce negative covenants in the contract even though the specific performance of the contract is not granted.¹¹

The Specific Relief Act, 1963, was enacted to provide remedies aimed at enforcing civil rights through specific performance rather than merely awarding monetary compensation. The Act recognizes that in certain situations damages may not adequately protect legal rights, particularly where the injury is continuous or where the subject matter of the dispute possesses a unique character. The provisions relating to injunctions therefore seek to prevent the commission or continuation of wrongful acts before irreversible harm

⁴ **Dalpat Kumar v. Prahlad Singh**, (1992) 1 SCC 719.

⁵ **Wander Ltd. v. Antox India (P) Ltd.**, 1990 Supp SCC 727; **Dorab Cawasji Warden v. Coomi Sorab Warden**, (1990) 2 SCC 117.

⁶ Specific Relief Act, No. 47 of 1963, ch. VII (India); Code of Civil Procedure, No. 5 of 1908 (India)

⁷ Specific Relief Act, 1963, §§ 36–42

⁸ Id. § 37

⁹ Id. § 38

¹⁰ Id. § 39.

¹¹ Id. §§ 40–42

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occurs. By incorporating equitable remedies within a statutory framework, the Act enables courts to provide effective preventive relief while ensuring that judicial discretion is exercised within recognized legal limits.

Despite being constituted by only seven sections, each section plays its own role in the Act concerning Injunctions. Although despite being constituted by only seven sections, each section plays its own role in the Act concerning injunctions.

Specifically, Section 36 lays down the statutory acknowledgment of preventive relief. Section 37 divides the types of injunctions into two categories: temporary and perpetual injunctions. Sections 38 and 39 lay down the conditions in which perpetual and mandatory injunctions can be made available. Sections 40 to 42 define the relationship of damages to injunctions, identify cases where injunctions will not be granted, and allow for the enforcement of negative contractual obligations.

All these sections together make sure that the remedy of injunctions is only an exceptional one. The statutory scheme thus embodies the proper balance between individual rights protection and the prevention of unnecessary judicial interference with lawful acts.

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2.2 The Code of Civil Procedure, 1908

Whereas the Specific Relief Act governs the substance of injunction, the Code of Civil Procedure,

1908 governs the procedure of interim injunction during the pending of the litigation. Under Section 94 of the Code, the courts have the power to pass interlocutory orders where such orders are necessary to save the ends of justice from being defeated.¹²

The detailed provisions regarding the grant of temporary injunction are laid down under Order XXXIX Rules 1 and 2. Under Rule 1, courts have the power to grant an injunction where the property involved in the dispute is in danger of being wasted, damaged, alienated or otherwise wrongfully dealt with. Under Rule 2, courts have the power to restrain a party from committing a breach of contract or any legal injury to the applicant. These provisions protect the subject matter of litigation until its final determination.¹³

Order XXXIX Rule 3 normally provides that no injunction shall be granted without giving due notice to the opposite party. However, where there is delay in giving the notice resulting in the defeat of the very purpose of granting the relief, the courts have the power to grant an ex parte injunction recording the reasons for granting it. To prevent the misuse of such orders, Rule 3A requires courts to dispose of applications for the ex parte injunctions as soon as possible.¹⁴

The procedural safeguards included in Order XXXIX of the Code of Civil Procedure have been designed to ensure that interim relief, when granted, is fair. As interim orders like that of temporary injunction can considerably impact the interest of the other party even before the resolution of the matter at hand, the Code demands the court to be careful in passing such orders.

The need for previous notice in Rule 3 is grounded in the audi alteram partem principle that insists that a person must always be provided an opportunity to be heard before passing any unfavorable order against him. The court may not give previous notice and may grant an ex parte order only in case it believes that any delay in granting the order will make its purpose futile.

2.3 Interpretation of the Statutory Provisions by Courts

The statutory provisions relating to injunction have been greatly developed by the judicial interpretation. For example, in *Cotton Corporation of India Ltd. v. United Industrial Bank Ltd.*, it has been held that the power to grant injunctions must be exercised within the limits of the law and courts cannot create a remedy which is beyond the statutory framework.¹⁵ In another decision of *Shiv Kumar Chadha v. Municipal Corporation of Delhi*, it has been held that ex parte injunctions can be granted only in exceptional circumstances, and the courts must record the reasons for granting it.¹⁶

Both the above decisions reiterate the principle that although the injunction is a discretionary remedy, it must be exercised in accordance with statutory provisions.

It has been seen that the statutory provisions governing injunctions have created a balance between protecting legal rights and the prevention of the misuse of the equitable remedies. Whereas the Specific Relief Act provides the statutory basis for the grant of injunction, the Code of Civil Procedure regulates the procedure of interim protection during the course of civil proceedings. Judicial interpretations have further strengthened this framework by establishing its scope and limitations.

¹² Code of Civil Procedure, 1908, § 94.

¹³ Id. Order XXXIX Rules 1–2

¹⁴ Id. Order XXXIX Rules 3–3A.

¹⁵ *Cotton Corp. of India Ltd. v. United Indus. Bank Ltd.*, (1983) 4 SCC 625

¹⁶ *Shiv Kumar Chadha v. Municipal Corp. of Delhi*, (1993) 3 SCC 161

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The legislative scheme relating to injunction has two distinct purposes. One is to protect the individual from any irreparable harm through timely preventive remedy when money damages would not be enough. The second purpose is to ensure that there is no arbitrary use of judicial power by laying down both the substance and procedure for issuance of injunction.

The proper working of the Specific Relief Act and the Code of Civil Procedure helps the court to maintain the balance between the competing interests of the parties while maintaining the sanctity of the process of law. With the increasing complexity of civil suits, especially in cases of commercial and intellectual property laws, the statutory scheme has become quite important.

CHAPTER 3

CONCEPT AND NATURE OF INJUNCTIONS & TYPES OF INJUNCTIONS

Injunctions are perhaps the most important preventive remedies under civil law. The basic function of injunctions is to safeguard legal and equitable rights from commission or continuance of some unlawful act before any irreparable damage is caused. Injunctive relief is quite different from compensatory remedies in that it aims at preventing the legal wrong rather than offering relief from the damage caused. Hence, injunctions are indispensable to civil litigation, especially when the remedy of compensation may not suffice for protecting the legal rights of the plaintiff.¹⁷

3.1 Meaning of an Injunction

Injunction means a judicial order which directs a person not to commit an act or, in certain cases, to do some act to meet his legal obligations. An injunction is a discretionary remedy granted by a competent court to protect the legal rights of the party, preserve the status quo, or prevent the person from committing the act which may cause irreparable harm. Since an injunction operates against a person rather than against property, it is usually referred to as a remedy in personam.¹⁸

An injunction can be granted on account of the presence of a legal or equitable right that needs to be protected. Injunctions cannot be granted simply because of the existence of a dispute; rather, courts intervene in situations where it becomes highly likely that the person applying the relief would incur harm that cannot be made up by awarding him damages or any other legal remedy. Hence, injunctions are extensively applied in disputes concerning property, contracts, intellectual property, commercial matters, environmental concerns, and other civil issues.

3.2 Historical Development of Injunctions

The idea of injunctions had evolved in the English system of equity. As per the common law, courts were inclined to award damages as the principal remedy for violation of legal rights. However, often damages proved inadequate in many cases, especially where the injury continued indefinitely or could not be accurately valued in monetary terms. To overcome this problem, litigants appealed to the Court of Chancery that exercised jurisdiction under principles of equity to grant injunctions as a preventive remedy.¹⁹

During the British rule, the equitable principles evolved by the English courts were adopted in Indian law. The power of the court to grant injunctions came to be recognized under early procedural statutes and later was codified by the Specific Relief Act, 1877. After post-independence reforms in the law, the Specific Relief Act, 1963 was enacted, superseding the previous statute and becoming the basis of substantive law concerning injunctions in India. Despite being now based upon statutory provisions, the equitable origin of the remedy is reflected in the way courts apply their powers.²⁰

3.3 Nature of Injunctions as an Equitable Remedy

Injunction is considered to be an equitable remedy since, in addition to legal rights, courts also have to take into account such concepts as fairness, justice, and good conscience in deciding whether to grant relief. Unlike those remedies available as a matter of right, an injunction is granted only in those situations where the court finds it equitable and just to grant it having examined the facts of the case.

The equitable nature of injunctions obligates applicants to behave in a fair manner. One who seeks an injunction should come to court with clean hands and present to the court all relevant facts without being misleading. Courts may decline granting the relief where an applicant has concealed some facts, delayed in filing the suit unreasonably, or behaved inequitably.²¹

The Supreme Court has held that injunctions are discretionary equitable for remedies, not automatic statutory rights. Thus, in the case of *Gujarat Bottling Co. Ltd. v. Coca Cola Co.*²² it was stated that the aim of injunctions is to preserve equity between the parties while preventing some acts that would defeat the purpose of the litigation.

The concept of injunctions had evolved from the equitable powers of the Court of Chancery in

England into a statutory remedy in India. Despite being now governed by statutory provisions of the Specific Relief Act, 1963 and the Code of Civil Procedure, 1908, injunctions have retained their equitable nature. The preventive nature of these remedies allows

¹⁷ **Specific Relief Act, No. 47 of 1963**, ch. VII (India).

¹⁸ **Gujarat Bottling Co. Ltd. v. Coca Cola Co.**, (1995) 5 SCC 545.

¹⁹ **Snell's Equity** 611–15 (John McGhee et al. eds., 35th ed. 2020).

²⁰ **Specific Relief Act, No. 47 of 1963** (India); **Specific Relief Act, No. 1 of 1877** (repealed).

²¹ **Prestige Lights Ltd. v. State Bank of India**, (2007) 8 SCC 449.

²² **Gujarat Bottling Co. Ltd. v. Coca Cola Co.**, (1995) 5 SCC 545.

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courts to protect legal rights before any substantial harm occurs and thus prevents justice from being defeated by delay or irreparable injury.

The law of injunctions takes into account various types of preventive relief depending on the nature of the right sought to be protected and the circumstances of each case. The Specific Relief Act, 1963 classifies injunctions into temporary and perpetual injunctions, while also recognising the separate remedy of mandatory injunctions. Decisions of courts have also made it clear that prohibitory and ex parte injunctions play a significant role in many cases requiring instant judicial intervention.

3.4 Temporary and Perpetual Injunctions

Section 37 of the Specific Relief Act, 1963 categorizes injunctions into temporary and perpetual injunctions. A temporary injunction is a procedural measure which is granted during the pendency of legal proceedings for the preservation of the subject matter of the dispute till the determination of the rights of the parties.²³ Temporary injunctions are usually granted where there is a danger of the alienation or destruction of the subject matter of the dispute or the likelihood of the act of commission on the part of the party which would render the final decree ineffective.

The essence of a temporary injunction is to maintain the status quo until there is a determination of the rights of the parties by the court. This type of injunction helps to avoid any acts from either side that would frustrate the determination of the court or make the decree ineffective. For example, if the immovable property is in issue, then the temporary injunction helps to restrain the defendant from transfer, sale, or alteration of the property. Similarly, in contractual cases, interim relief can be granted to stop the defendant from breaching his/her contractual duties until the rights of the parties are decided by the court. Thus, this kind of relief ensures fairness between the parties as well as the importance of judicial process.

Like temporary injunctions, perpetual injunctions have another distinction from them. Firstly, they are granted based on the determination of the rights of the parties based on the evidence presented before the court. In other words, the court can grant perpetual injunctions after making an evaluation of the case. Secondly, this type of injunction permanently stops the defendant from doing anything that will violate the legal rights of the plaintiff unless the decree is modified or set aside by the appellate court.

In *Dalpat Kumar v. Prahlad Singh*, the Supreme Court laid down that temporary injunctions can only be granted in case where there are a prima facie case and a balance of convenience on the part of the applicant along with irreparable injury to him.²⁴ In this case, the Supreme Court reiterated the conditions governing applications for interim injunctions.

However, a perpetual injunction is a final decree whereby the defendant is restrained from committing an act which violates the legal right of the plaintiff. Under Section 38 of the Specific Relief Act, the court has power to permanently restrain the defendant from doing any act which would violate the legal right of the plaintiff. Perpetual injunctions are granted where monetary compensation is inadequate, or there is a danger of repetitive violation of the legal rights.²⁵ Unlike temporary injunctions, perpetual injunctions finally decide the rights of the parties in relation to the disputed act.

3.5 Mandatory and Prohibitory Injunctions

Section 39 of the Specific Relief Act contains the provision relating to mandatory injunctions which are granted to compel the defendant to do some specific act to prevent violation of his legal right. Since such an injunction requires positive action to be taken on the part of the defendant rather than mere prohibition, greater judicial prudence is required before granting such injunction.

In *Dorab Cawasji Warden v. Coomi Sorab Warden*, the Supreme Court held that mandatory injunctions could only be granted where the plaintiff proves a strong prima facie case, and the injury is serious.²⁶ The Court held that it was necessary to refuse to grant mandatory injunction if the refusal is likely to lead to a great injustice to the plaintiff because such an injunction is of far-reaching consequence.

However, prohibitory injunction is a measure which prohibits the commission of an act violating the legal right of a person. Though no separate provision regarding prohibitory injunctions is available in the Specific Relief Act, they constitute the most common form of preventive relief granted by the civil courts. They are frequently granted in disputes regarding trespass, breach of contract, intellectual property infringement, nuisance, and unlawful interference with property rights. Their main objective is to keep the existing legal status intact until the dispute is decided.

While both mandatory and prohibitory injunctions are preventive in nature, the way in which they function is entirely dissimilar. While a mandatory injunction aims to restore the status that existed prior to the commission of any wrong act, through the fulfillment of a certain obligation on the part of the defendant, a prohibitory injunction only restrains the party from committing a certain act in the future. The mandatory injunctions are granted when there is a clear case of breach and serious injury and it is felt by the court that prohibition alone will not suffice in safeguarding the interest of the plaintiff. The reason for such a cautious approach is that mandatory injunction involves positive actions and may lead to drastic changes in the existing situation.

²³ Id. § 37; Code of Civil Procedure, No. 5 of 1908, Order XXXIX Rules 1–2 (India)

²⁴ *Dalpat Kumar v. Prahlad Singh*, (1992) 1 SCC 719.

²⁵ Specific Relief Act, 1963, § 38.

²⁶ *Dorab Cawasji Warden v. Coomi Sorab Warden*, (1990) 2 SCC 117.

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As against this, prohibitory injunctions are comparatively more common in civil cases as they involve only the restriction of certain actions of the party. They are used for preserving the status quo pending the final determination of the dispute and preventing future injury. In general, these types of injunctions are issued in property disputes, breach of intellectual property rights, nuisance, environmental protection, breach of contract, and tortious acts of unlawful interference with possession.

3.6 Ex Parte Injunctions

Ex parte injunctions are those which are granted without giving notice to the opposite party where there is urgency of such grant. Such injunctions derive their authority from Order XXXIX Rule 3 of the Code of Civil Procedure and are regarded as extraordinary measures.

To prevent misuse, the Supreme Court in *Shiv Kumar Chadha v. Municipal Corporation of Delhi* laid down that ex parte injunctions can only be granted in cases of real urgency.²⁷ The Court held that the judge should give full reasons for dispensing with notice and must make sure that the opposite party is heard at the earliest opportunity.

Thus, different kinds of injunctions enable courts to provide suitable relief according to the facts of the cases. While temporary injunctions preserve the subject matter until the determination of rights, perpetual injunctions give final protection to such rights after determination. Mandatory injunctions compel the performance of legal obligations while prohibitory injunctions restrain acts contrary to law. Ex parte injunctions provide instant protection in cases of urgency but are subject to judicial caution.

This is because ex parte injunction can be obtained even without providing the opposite party a chance of making its case, hence it is the exceptional form of interim relief available within the procedure of law of India. In such cases, courts strictly observe the conditions laid down in Order XXXIX Rule 3 of the Code of Civil Procedure when granting such powers. The applicant needs to prove that issuing the notice would render the purpose of obtaining the injunction ineffective, leading to irrevocable damage. The court should state the grounds for granting the ex parte relief and instruct the applicant to file pleadings and necessary documents to the opposite party without any undue delay.

The judicial scrutiny does not end with the ex parte grant of injunction. Rule 3A of Order XXXIX enjoins the court to make all efforts to hear the parties quickly and dispose of the application in respect of the injunction. This is a safeguard for the principle of natural justice which ensures that the opposite party, in whose favor the injunction has been granted, gets an opportunity of challenging the interim order. Ex parte injunctions are thus meant to act temporarily.

CHAPTER 4

PRINCIPLES GOVERNING THE GRANT OF INJUNCTIONS

An injunction is not a matter of right; however, it can only be granted provided that the applicant satisfies some well settled principles of law. Since an injunction may have the effect of restraining the rights of another until the final hearing of the suit, courts have always exercised this discretion with caution. From the experience of the past judgments, threefold tests have been developed as the criterion for awarding interim relief. Apart from these conditions, there are some equitable principles also.²⁸

4.1 Essentials Conditions for Grant of an Injunction

The Indian courts have always laid down three essential conditions that need to be established by the applicant for granting an injunction: prima facie case, balance of convenience and irreparable injury. All these three conditions are inter-dependent, and failure in proving any one of them would result in refusal of relief.

By prima facie case, it is not meant that the plaintiff must prove his case completely and conclusively. All it means is that the court must be satisfied that there is a genuine dispute of a legal right which deserves adjudication. In *Dalpat Kumar v. Prahlad Singh*, the Supreme Court clarified that a prima facie case was just a single condition to be satisfied.²⁹

It should be observed that while a prima facie case is said to exist, this in no way requires the court to make determinations of the ultimate rights of the parties as far as the interlocutory proceedings are concerned. In considering the application for an injunction, all that the court will investigate is whether the issue raised by the applicant constitutes a serious and debatable one which needs to be considered at the trial of the matter. A careful consideration of the facts of the matter is not done to avoid prejudicing the eventual outcome of the case.

The second condition is that of balance of convenience. It means that the court has to make a comparison of the inconveniences or hardships suffered by the two parties. Where granting or refusing an injunction causes greater prejudice to the one not applying for the relief than the other, then an injunction is ordinarily granted. In *Best Sellers Retail (India) Pvt. Ltd. v. Aditya Birla Nuvo Ltd.*, the Supreme Court made clear that interim relief can be granted only after balancing the interest of the parties.³¹

The last condition is that of an irreparable injury. An irreparable injury means that which cannot be compensated for by monetary compensation. In *M. Gurudas v. Rasaranjan*, the Supreme Court observed that an injunction could not be granted where the injury

²⁷ *Shiv Kumar Chadha v. Municipal Corp. of Delhi*, (1993) 3 SCC 161.

²⁸ *Dalpat Kumar v. Prahlad Singh*, (1992) 1 SCC 719.

²⁹ *id* 31

Best Sellers Retail (India) Pvt. Ltd. v. Aditya Birla Nuvo Ltd., (2012) 6 SCC 792.

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suffered could be easily remedied by monetary compensation. This principle is meant for granting relief in situations where the injury suffered is not capable of being restored back by way of subsequent compensation.³⁰

4.2 Equitable Principles of Injunctions

Apart from these legal requirements, there are also some equitable principles that have to be followed. As injunction is an equitable remedy, the conduct of the parties plays an important role. The courts expect the applicant to come to court with utmost honesty, disclosing all the material facts, without causing any unnecessary delays.

In *Prestige Lights Ltd. v. State Bank of India*, the Supreme Court observed that a party seeking equitable relief must do so with clean hands. Any suppression of material fact or misleading by the court would bar the applicant from securing injunction regardless of the merit of the claim.³¹

Similarly, in *Zenit Mataplast Pvt. Ltd. v. State of Maharashtra*, the Court pointed out that equity relief should not be granted blindly but only after taking into account all the facts and the interest of justice.³² Both these cases show the importance of equitable relief being dependent not merely upon the rights of the person but also on fairness, honesty, and judicial conscience.

4.3 Judicial Interpretation of the Principles

Though the principles of law regarding injunctive relief have been settled already, the way in which they must be applied varies with the facts of each case. All the relevant circumstances are considered collectively and not each in isolation. This flexible way of interpreting helps the judges in protecting the legal rights while preventing abuse.

Seema Arshad Zaheer v. Municipal Corporation of Greater Mumbai was a case where the Supreme

Court re-emphasized that these three essential conditions should be fulfilled in granting relief. The Court observed that the object of an injunction is to preserve justice in the process of adjudicating and not to give an unfair advantage to any party.³³

Therefore, the granting of an injunction involves balancing legal rights and equitable considerations. Courts strive to protect against the irreparable harm without unnecessarily interfering with the legal rights of the other party.

The principles of law regarding the grant of injunctions ensure that the remedy is exercised in a proper and equitable manner. With the help of these conditions, viz., a prima facie case, balance of convenience, irreparable injury and equitable conduct, the courts prevent any abuse of judicial power and safeguard the legal rights.

CHAPTER 5

APPLICABILITY OF INJUNCTIONS IN CIVIL LITIGATION

One of the key aspects of the application of injunctions in civil litigation is their utility in protecting legal rights prior to the final determination of the case. Given that many disputes of civil nature have a potential to cause immediate irreparable harm, the remedy of injunction plays a crucial role in preserving the object of litigation and preventing any actions that may render the judgment ineffective. Today the use of injunctions is indispensable in various civil matters such as property, contractual, intellectual property, environmental and public law disputes.³⁴

5.1 Property and Contractual Disputes

Disputes regarding property represent one of the fields where injunctions are most often sought. During a suit, one of the parties may try to dispose of, alienate or in any way affect the object of dispute in order to thwart the effectiveness of the final judgment. Temporary injunctions help to preserve the status quo during the litigation period and prevent these actions prior to the determination of the rights of the parties. It guarantees that the final ruling is meaningful and enforceable.

In the same way, injunctions are widely used in contractual disputes to prevent breach of contractual obligations or enforcement of negative covenants in case monetary compensation is not sufficient to restore the rights of the injured party. Section 42 of the Specific Relief Act, 1963 provides that courts have power to enforce negative agreements even when it is impossible to grant the specific performance of the contract.³⁵

In *Gujarat Bottling Co. Ltd. v. Coca Cola Co.* Supreme Court upheld the decision of an injunction restraining the breach of a negative covenant included in a commercial agreement. The Court pointed out that an injunction is appropriate in those cases when it preserves the obligations of the contract and prevents any unfair commercial actions prior to adjudication.³⁶

³⁰ *M. Gurudas v. Rasaranjan*, (2006) 8 SCC 367.

³¹ *Prestige Lights Ltd. v. State Bank of India*, (2007) 8 SCC 449.

³² *Zenit Mataplast Pvt. Ltd. v. State of Maharashtra*, (2009) 10 SCC 388.

³³ *Seema Arshad Zaheer v. Mun. Corp. of Greater Mumbai*, (2006) 5 SCC 282.

³⁴ Specific Relief Act, No. 47 of 1963, §§ 36–42 (India); Code of Civil Procedure, No. 5 of 1908, Order XXXIX Rules 1–2 (India).

³⁵ Specific Relief Act, 1963, § 42.

³⁶ *Gujarat Bottling Co. Ltd. v. Coca Cola Co.*, (1995) 5 SCC 545.

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In cases involving property disputes, there is often the likelihood of disposition or modification of the property being litigated until the determination of the case. Without any form of temporary relief, the party that prevails will merely get an academic decree that cannot be effectively executed as the property would have already been sold, mortgaged or changed considerably. Thus, the importance of injunctions cannot be overstated, as they are very important in maintaining the object of litigation. The protective nature of the process contributes to the trustworthiness of the civil litigation process.

In case of breaches of contracts, injunctions are important especially when damages do not provide sufficient relief to the contracting parties. Contracts often have negative covenants or restrictions such as confidentiality clauses, non-competition agreements, exclusivity clauses and trade secret protection. These types of obligations result in damage that cannot be measured in monetary terms. Therefore, the courts have the mandate to issue injunctions against the breach of these types of contracts while at the same time enforcing the obligations under the contract.

5.2 Commercial, Intellectual Property and Environmental Disputes

Given the development of commerce and technology, injunctions are becoming more important in the sphere of commercial and intellectual property rights. Courts regularly provide interim injunctions to restrain acts of trademark infringement, copyright violation, passing off, and the misuse of confidential information. If the action is delayed, the party may lose the right of goodwill, market reputation or exclusive right which is impossible to compensate for money damages.

In *Midas Hygiene Industries (P) Ltd. v. Sudhir Bhatia* the Supreme Court stated that in those cases when the infringement of the intellectual property rights is proved, courts should normally grant injunctions as soon as possible, especially if there is a sign of dishonesty from the side of the defendant.³⁷

Another field where the preventive role of the injunction is very important is the sphere of environmental disputes. Injunctions are often provided to restrain those actions which lead to ecological destruction or public nuisance prior to the irreparable damage done to the environment. This kind of relief reflects the preventive approach characteristic for environmental law and shows the commitment of the Constitution to the protection of the environment of present and future generations.³⁸

5.3 Public Interest and Other Civil Matters

Alongside disputes of private law nature, injunctions may be provided in those cases when public rights are violated, or any statutory obligation is not fulfilled. Courts may order injunctions to prevent any illegal constructions, unauthorized encroachments or other actions in violation of municipal or statutory regulation. For instance, in *K. Ramadas Shenoy v. Chief Officers, Town Municipal Council, Udipi* the Supreme Court restrained any construction in violation of the municipal planning regulation, pointing out that the requirements of municipal statutes cannot be disregarded just because of private parties' consent.³⁹

The practical application of injunctions demonstrates their importance in the Indian civil justice system. Providing the preservation of property, enforcement of contractual obligations, protection of intellectual property, prevention of environmental harm and ensuring the fulfillment of statutory duties, injunctions allow the court to provide timely and effective preventive relief.

Chapter 6

JUDICIAL DISCRETION IN GRANTING INJUNCTIONS

Judicial discretion happens to be one of the important features of injunction jurisprudence. Though the Specific Relief Act, 1963 and the Code of Civil Procedure, 1908 outline the legal framework governing injunctions, the granting of such reliefs is not mandatory in all cases where the statutory requirements are satisfied. Rather, judges are required to investigate the facts of each individual case and see if the grant of injunction in the given scenario will be in accordance with justice. Injunction being an equitable remedy is something which not only depends on the legal rights of the litigants but also upon their fairness and the consequence of the relief itself.⁴⁰

6.1 Nature and Scope of Judicial Discretion

Judicial discretion means the power of the courts to take a rational decision within the limits prescribed by law. In the context of granting injunctions, judicial discretion gives the court powers to consider certain factors which cannot be looked at in rigid statutory framework. While statutes provide the circumstances under which injunctions can be granted, the judge is required to decide if in a given situation the remedy will be proper or not taking into consideration the conduct of the parties, urgency of the matter, availability of other remedies and the balance of justice.

It has been reiterated by the Supreme Court in many cases that judicial discretion is neither arbitrary nor absolute. Judicial discretion must be exercised on recognized principles of law and on rational grounds. An order of granting or refusing injunction will thus

³⁷ *Midas Hygiene Indus. (P) Ltd. v. Sudhir Bhatia*, (2004) 3 SCC 90.

³⁸ *M.C. Mehta v. Union of India*, (1987) 1 SCC 395

³⁹ *K. Ramadas Shenoy v. Chief Officers, Town Mun. Council, Udipi*, (1974) 2 SCC 506

⁴⁰ Specific Relief Act, No. 47 of 1963, §§ 36–42 (India); Code of Civil Procedure, No. 5 of 1908, § 94 & Order XXXIX Rules 1–3A (India).

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show that the court has taken into consideration not only the legal rights of the applicant but also the effect of its decision on the opposite party.⁴¹

6.2 Judicial Interpretation of Discretionary Powers

The Supreme Court through many landmark judgments has thrown light on how judicial discretion is to be exercised in the context of granting of injunctions.

In *Wander Ltd. v. Antox India (P) Ltd.*, it was observed by the court that the grant of an interim injunction is basically the question of discretion of the trial court. Interference by appellate courts with discretionary orders should be made very sparingly unless the discretion has been exercised arbitrarily or capriciously or contrary to the legal principles.⁴²

A similar observation was made by the Supreme Court in *Dorab Cawasji Warden v. Coomi Sorab Warden*. It was held by the court that mandatory injunctions can be granted only in extraordinary cases where a very strong case exists, and failure to grant injunctions would cause serious injustice.⁴³ This judgement shows that different types of injunctions need to be considered on their own merits depending upon their consequences.

In *Prestige Lights Ltd. v. State Bank of India*, it was emphasised by the court that an equitable relief cannot be obtained by a party having suppressed the material facts and approaching the court with unclean hands.⁴⁴ Thus judicial discretion is not only concerned with legal rights but also the fairness of the litigants.

6.3 Challenges to the Exercise of Judicial Discretion

Though judicial discretion enables courts to take rational decisions keeping in view the facts of individual cases, there are some difficulties in this regard. Different judges can give varying weight to the different facts and hence the result could be different in granting or refusing injunction even in cases where there were common legal questions involved. Such differences could cause some problems for litigants and also could adversely affect the certainty of judicial decisions.

Another problem can arise in applications for ex parte injunctions where the court is called upon to decide within a short time frame based on the limited material available before it. Though an immediate intervention of the court could become essential to prevent irreparable damage in some cases, yet there is always a danger that an unjustifiable ex parte order might prejudice the opposite party before it gets an opportunity to argue its case.

These problems have been addressed by requiring courts to record the reason for granting an injunction and holding timely hearings after the interim order has been issued.⁴⁵

Yet another issue is caused by the urgency of many cases where the grant of injunctions is sought. The court is usually under pressure to rule on interim applications within a short timeframe based on a limited amount of documentary evidence. At this stage of the case, there is no final evidence available, and it is essential to weigh the importance of taking timely action while avoiding undue prejudice to the other side. In such circumstances, the use of judicial discretion becomes especially difficult as judges must take a careful approach to their ruling.

Judicial discretion could be impacted by the growing complexity of commercial disputes which nowadays are related to issues of intellectual property, technological inventions, building of infrastructure projects, and international business deals. Modern commercial disputes are characterized by the presence of conflicting public and private interests; accordingly, in addition to resolving the legal rights of parties involved, it is crucial to consider the implications of granting an injunction or denying it.

Judicial discretion is the bedrock of law of injunctions in India. It provides the courts with flexibility in applying equitable remedy to the facts of individual cases while also ensuring that the statutory provisions are properly enforced and applied. At the same time such discretion should remain governed by legal principles, rational decisions, and precedents of judgements. If judicial discretion is used cautiously, then it builds up the confidence of public in civil judicial process by ensuring that the injunctions serve the purpose of securing legal rights without causing any unnecessary injustice.

Though judicial discretion is an integral part of the law pertaining to injunctions, it is not an unfettered and arbitrary power. Each exercise of judicial discretion must necessarily be done in accordance with the statutory enactments, judgments of courts, and the principles of equity. The courts cannot pass orders of injunctions just based on compassion or any personal sense of justice.

The Apex Court of the country has laid down in many cases that a discretionary order may be challenged and reviewed in appeal where the order was passed arbitrarily, perversely or against legal principles. This helps in ensuring uniformity in decision making without losing flexibility in passing injunctive orders. Thus, judicial discretion is a form of controlled legal power which ensures justice through certainty of law.

⁴¹ *Dalpat Kumar v. Prahlad Singh*, (1992) 1 SCC 719.

⁴² *Wander Ltd. v. Antox India (P) Ltd.*, 1990 Supp SCC 727

⁴³ *Dorab Cawasji Warden v. Coomi Sorab Warden*, (1990) 2 SCC 117.

⁴⁴ *Prestige Lights Ltd. v. State Bank of India*, (2007) 8 SCC 449.

⁴⁵ *Shiv Kumar Chadha v. Municipal Corp. of Delhi*, (1993) 3 SCC 161.

CHAPTER 7

JUDICIAL DEVELOPMENTS, COMPARATIVE ANALYSIS AND KEY FINDINGS

The law regarding injunctions in India can be traced to statutory provisions and judicial developments in interpretation of these provisions. While the Specific Relief Act, 1963 and the Code of Civil Procedure, 1908 provide the relevant statutes, the practice in India relating to injunctions is mostly based on the judgements handed out by the courts. Judicial developments have led to clarity in understanding judicial discretion, the conditions for granting preventive relief and limits on issuing injunctions. An analysis of other common law countries will reveal the way in which principles of equity continue to inform the law of injunctions in modern times as well as offer some useful lessons for Indian law.

Case	Principle
Dalpat Kumar	Three-fold test
Wander Ltd.	Appellate interference
Gujarat Bottling	Negative covenant
Dorab Cawasji	Mandatory injunction
Shiv Kumar Chadha	Ex parte injunction
Prestige Lights	Clean hands doctrine

7.1 Landmark Judicial Developments

A lot of efforts have been made by the Indian courts to develop a set of principles concerning the issuance of injunctions in a systematic manner. Important judicial pronouncements have helped clarify the occasions when equitable relief should be awarded and precautions that should be taken to prevent their misuse.

In *Dalpat Kumar v. Prahlad Singh*, the Supreme Court has laid down that any party applying for a temporary injunction should establish a prima facie case, balance of convenience and irreparable injury. It has been clarified by the Court that while prima facie case is enough in itself, the other two elements must also be established.⁴⁶ This remains the principal precedent in the field of injunctions in India.

The judgement in the case of *Wander Ltd. v. Antox India (P) Ltd.* concerned with the issue of appellate intervention in orders awarding or refusing to award injunctions. The Court ruled that since orders involving the exercise of judicial discretion, appellate intervention should be limited to those cases where the discretion was exercised arbitrarily, perversely or contrary to the relevant principles of law.⁴⁷

In the landmark judgement of *Gujarat Bottling Co. Ltd. v. Coca Cola Co.*, the Court has held that injunctions should be enforced in commercial contracts when the damage award would not suffice in maintaining the contract.⁴⁸

Dorab Cawasji Warden v. Coomi Sorab Warden is yet another landmark judgement in the same context. In that case, the Supreme Court has laid down that mandatory injunctions are to be granted only in exceptional cases where there are a strong prima facie case and chances of serious injustice if relief is not provided.⁴⁹

In *Shiv Kumar Chadha v. Municipal Corporation of Delhi*, the Supreme Court has emphasized that ex parte injunctions must be exceptional in nature and should be issued only after considering the clear grounds explaining the necessity.⁵⁰ Additionally, in *Prestige Lights Ltd. v. State Bank of India*, it has been clarified that equitable relief is available only to parties that have clean hands and disclose all relevant information truthfully.⁵¹ Thus, judicial discretion has become more structured due to the above-mentioned judgments.

7.2 Comparative Analysis

Indian law of injunctions is based on the law of equity prevailing in England. In England, the origin of injunctions lies in the jurisdiction of the Court of Chancery which used to supplement rigid common law with flexible equitable remedies. Currently, the power of granting injunctions rests on statute like the Senior Courts Act 1981, and equitable principles continue to govern the exercise of judicial discretion.⁵²

The US law of injunctions involves the application of both statutory provisions and judicial precedents. American courts normally apply four criteria including likelihood of success, irreparable injury, balance of equities and public interest before awarding

⁴⁶ *Dalpat Kumar v. Prahlad Singh*, (1992) 1 SCC 719.

⁴⁷ *Wander Ltd. v. Antox India (P) Ltd.*, 1990 Supp SCC 727

⁴⁸ *Gujarat Bottling Co. Ltd. v. Coca Cola Co.*, (1995) 5 SCC 545.

⁴⁹ *Dorab Cawasji Warden v. Coomi Sorab Warden*, (1990) 2 SCC 117.

⁵⁰ *Shiv Kumar Chadha v. Mun. Corp. of Delhi*, (1993) 3 SCC 161

⁵¹ *Prestige Lights Ltd. v. State Bank of India*, (2007) 8 SCC 449.

⁵² *American Cyanamid Co. v. Ethicon Ltd.*, [1975] AC 396 (HL); **Senior Courts Act 1981**, c. 54 (UK)

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injunctions.⁵³ This means that US law of injunctions has more emphasis on the public interest element than the English law of injunctions.

Though Indian courts still follow principles of equity inherited from the English law, they have developed a body of independent jurisprudence suited to the Indian situation. However, procedural consistency, prompt disposal of interim applications and reasoned discretionary orders are some of the things that can be improved in India taking cue from other common law jurisdictions.

Comparative analysis shows that, regardless of the different forms in which it is formulated in the statute, common law still considers an injunction to be an equitable remedy in the discretionary nature rather than a legal right. The courts of England, India, and the US unanimously agree that preventive relief can only be granted where the justice demands prompt action. But each jurisdiction has its own procedures aimed at avoiding any abuse and ensuring that judicial discretion is applied consistently.

The laws of India are different from those of some common law jurisdictions because the principles regarding injunctions have been codified through the Specific Relief Act, 1963. On the contrary, English law still depends mostly on the development of equity through judicial decisions whereas the courts of the US consider both the equity principles and procedural laws that differ from one jurisdiction to another. Yet, the aims of both laws are almost similar.

India	England	United States
Prima facie case	Serious question to be tried	Likelihood of success
Balance of convenience	Balance of convenience	Balance of equities
Irreparable injury	Irreparable harm	Irreparable harm
Judicial discretion	Equitable discretion	Public interest also considered

7.3 Key Findings

The present study leads to various findings. First, injunctions are one of the most powerful preventive remedies available in Indian civil proceedings due to the preventive nature of the remedy. Secondly, the statutory framework under the Specific Relief Act, 1963 and Code of Civil Procedure, 1963, along with judicial interpretation, have ensured that these provisions are interpreted with due regard to the principles of equity.⁵⁴

Thirdly, this study has revealed that judicial discretion is essential for the purposes of injunctions. Though judicial discretion allows judges to take a view of the unique facts of individual cases, it must be exercised within well-known legal limitations and should always be backed up by reasoned decisions. The landmark judgements of the Supreme Court of India have considerably reduced the uncertainties by formulating the uniform principles applicable to temporary, mandatory and ex parte injunctions.

Finally, the comparative analysis reveals that the Indian law is largely consistent with the law in other common law jurisdictions but may benefit from some procedural improvement.

CHAPTER 8

PRACTICAL ISSUES AND ABUSE OF INJUNCTIONS

Although the grant of injunctions is expected to be a preventive relief mechanism, there are various practical issues relating to the grant of such reliefs. There is the issue of judicial delay, the misuse of interim measures, inconsistency in judicial approach, difficulty of enforcement, etc., which reduces the effectiveness of the injunctions. Since injunctions are discretionary and are sought at the initial stage of the proceedings, there is the possibility of their misuse to delay or put pressure on the opposite party. It is important to overcome such issues so that injunctions continue to serve the interest of justice.⁵⁵

8.1 Judicial Delay in Disposal of Injunction Application

One of the major challenges associated with injunctions is the delay in deciding the applications for interim relief. Interim injunctions are meant to provide immediate relief pending final adjudication of the dispute. The problem arises when lengthy hearings and frequent adjournments result in the pendency of applications for an unnecessarily long period. Such delay defeats the whole purpose of preventive relief because the very harm for which injunction was sought would have taken place before the court decides the case.

To overcome this problem, the Code of Civil Procedure, 1908, provides that when a court grants an ex parte injunction, it must make every possible effort to decide the application within a reasonable time after hearing the opposite party.⁵⁸ Even though the Code tries to minimize unnecessary delay, practical issues like large judicial workloads and procedural backlog continue to be a problem.

8.2 Misuse of Ex Parte Injunctions

Ex parte injunctions are granted without notice to the opposite party due to the fear of undue delay.

⁵³ *Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7 (2008)

⁵⁴ Specific Relief Act, No. 47 of 1963, §§ 36–42 (India); Code of Civil Procedure, No. 5 of 1908, § 94 & Order XXXIX Rules 1–3A (India).

⁵⁵ Specific Relief Act, No. 47 of 1963, §§ 36–42 (India); Code of Civil Procedure, No. 5 of 1908, Order XXXIX (India). 58 Code of Civil Procedure, 1908, Order XXXIX Rule 3A.

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While in certain cases such relief cannot be done without, the other side is also susceptible to misuse. Litigant can get an ex parte injunction by suppressing the material facts of the case and over exaggerating the necessity of the order, thus taking unfair advantage before the case of the opposite party is heard.

In *Shiv Kumar Chadha v. Municipal Corporation of Delhi*, the Supreme Court of India has said that such relief must be granted in rare cases and the reason for granting such relief must be recorded in the order of the court. The Court has also said that the opposite party must be heard immediately.⁵⁶ The above safeguards aim at striking a balance between the requirement of urgent judicial intervention and natural justice.

8.3 Forum Shopping and Misuse by Litigants

Sometimes litigants indulge in forum shopping by instituting proceedings before the court that may grant the desired interim relief, thereby undermining the public confidence in the judicial process as well as multiplicity of proceedings.

Injunctions may also be abused as a litigation strategy to delay commercial transactions, restrain business activities, or pressurize the opposite party to settle the dispute on unfavorable terms. Since interim injunctions may remain operative for a considerable period, their abuse may give rise to serious economic consequences.⁵⁷ Therefore, courts are careful to ensure that preventive relief is not being abused as an instrument of harassment.

8.4 Enforceability Issues

Ultimately, the effectiveness of any injunction depends upon the compliance with the order of the court. Although there are various methods available for the enforcement of the injunction, practical problems may arise where the parties deliberately disobey judicial order. The disobedience may require contempt or execution of proceedings, which may lead to further delay and additional expenses. The problem of enforcement becomes even more critical in disputes involving commercial transactions, intellectual property or changing situations where delay in compliance with the order may seriously diminish the utility of the injunction. Therefore, the enforceability of the order is important for achieving the objective of the injunction.

Injunctions continue to be one of the most useful preventive measures in the Indian civil procedure, but their effectiveness depends upon the timely judicial intervention, proper exercise of judicial discretion and strict compliance with procedural safeguards. Judicial delays, misuse of ex parte injunction, forum shopping and enforcement problems still continue to pose practical challenges. Overcoming such issues by efficient case management, proper judicial order, and better procedural compliance will increase the effectiveness of injunctions as an equitable remedy.

CHAPTER 9

RECOMMENDATIONS

While the law pertaining to the doctrine of injunction in India has undergone considerable development through legislative action and judicial pronouncements, there are practical difficulties that continue to impede the timely administration of preventive relief in India. While the existing law sufficiently recognises the need to issue injunctions, some changes may help make the process even more effective and provide greater certainty for the judiciary.

Prompt Disposal of Injunction Applications Applications for interim injunctions must be disposed of at the earliest stage of the litigation. As the interim injunction is meant to prevent imminent harm, delays would render any grant ineffective. The Code of Civil Procedure, 1908, which prescribes a timetable for the disposal of various types of applications, should always be followed, especially in ex parte injunctions.

Greater Consistency in Judicial Decision-Making Even though there should be judicial discretion in determining applications for injunctions, similar cases must yield similar results. Greater consistency may be ensured by continued reliance on the principles enunciated by the Supreme Court, such as the requirement of a prima facie case, balance of convenience, and irreparable injury. In addition, it would be helpful if the judicial orders were to set out the rationale for allowing or refusing relief.

Restriction of the Misuse of Ex Parte Injunctions Ex parte injunctions must remain exceptional relief and must be ordered in cases when there is real urgency. It is essential to ensure that the applicant discloses all relevant information and that the issuance of notice would indeed make the purpose of the injunction unachievable. In addition, following the provisions of the Code of Civil Procedure, which are designed to prevent misuse of the procedure, will achieve this purpose as well.³

Strengthening Enforcement, the effectiveness of an injunction does not depend only on the order itself, but also on its enforcement. Contempting court orders undermines people's confidence in the administration of justice and the value of preventive relief. Hence, courts should ensure enforcement of the injunction by applying the appropriate remedies provided for in the law.

Adoption of Good Practices of Other Countries The comparative experience shows that clear procedural standards and timely intervention by the court are among those factors that help to effectively operate the process of issuing injunctions. Although the Indian law has developed in its own way, procedural changes such as issuing detailed interim orders, scrupulous review of urgent applications and scheduling of hearings may be helpful.

⁵⁶ *Shiv Kumar Chadha v. Mun. Corp. of Delhi*, (1993) 3 SCC 161.

⁵⁷ *Prestige Lights Ltd. v. State Bank of India*, (2007) 8 SCC 449.

CHAPTER 10 CONCLUSION

Injunctions belong to one of the main preventive remedies provided for by the Indian civil law. Contrary to compensatory remedies that aim to redress a wrong, an injunction is a preventive measure designed to protect the party from committing a wrong act. Due to the preventative nature, an injunction plays an essential role in civil procedure being widely used in property, contractual obligations, business transactions, intellectual property and environmental issues.⁵⁸

This research shows that the legal basis of the studied remedy is laid down by the Specific Relief Act, 1963 and the Code of Civil Procedure, 1908. These laws form the substance and procedure for issuing injunctions and ensure that exercising judicial power is done according to the applicable legal standards. Besides, through judicial interpretations, the law on injunctions was further explained and clarified by the Supreme Court of India.⁵⁹

One of the key findings of the research is that the exercise of judicial discretion constitutes the essence of injunctive jurisprudence. Since each dispute is unique, relying only on the statutes would not be enough. Thus, the judge should consider such factors as the existence of a prima facie case, the balance of convenience, the possibility of irreparable damage, and the conduct of the parties. Consistently, through judicial precedents, it is shown that discretion should be exercised rationally, reasonably, and in accordance with the rules of law.⁶³

It should be added that even having an elaborate legal framework, there are some practical issues that can decrease the effectiveness of injunctions. They include delays in making decisions regarding interim applications, abuse of ex parte injunctions, forum shopping, and problems with executing judicial decisions.⁶⁰

By comparative analysis of injunction law in other common law countries, it is possible to say that the law of injunctions in India has originated from English equitable law but has become an autonomous system that is well suited for Indian civil procedure. However, following some procedural best practices – timely considering of interim applications, reasonable judicial reasoning and greater procedural consistency - can contribute to the effectiveness of the existing law without changing its equitable nature.

Thus, injunctions play an important part in civil procedure of India allowing to protect legal rights and preserve the integrity of the procedure. In combination with statutory provisions, equitable doctrines and judicial precedents, there was formed an appropriate framework giving courts the opportunity to prevent injustice while providing for the interests of all parties involved. With the development of civil disputes, the significance of injunctions as a means of preventive justice will increase.

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