

Interim Orders under the Code of Civil Procedure

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Introduction

- Time being
- Meanwhile
- Temporary
- Provisional
- Not final
- Intervening
- Interlocutory orders
- Not that which decide cause
- Settle only intervening matters to the cause
- Protect rights of the parties during pendency of suit
- Prevent abuse of the process
- Crucial role in conduction of suit
- Discretionary powers

Kinds of Interim Orders:

Temporary Injunctions

Arrest before Judgment

Attachment before Judgment

Appointment of Commission

Appointment of Receiver

Temporary Injunction: Order - 39

- Introduction
- Meaning
- Stay and Injunction
- Doctrine explained
- Object
- Types
- Who may apply?
- Against whom injunction may be issued
- Grounds
- Principles:
 - *Prima facie case*
 - *Irreparable Injury*
 - *Balance of (in)convenience*
 - Other factors

Temporary Injunction: Order - 39

- Discretion of Court
- Equitable remedy
- Injunction which may be granted
- Injunction which may not be granted
- Inherent power
- Notice
- Amendment Act, 1976
- Ex-party Injunction
- Ex-party ad-interim injunction
- Recording of reasons
- Imposition of conditions
- Doctrine of precedent
- Status quo
- Mandatory injunction
- Scope of inquiry
- Res-judicata
- Temporary injunction: duration
- Breach of Injunction

Appointment of Commission: Order –26, Sec. 75 -78

- Introduction
- Purpose
 1. to examine witnesses;
 2. to make local investigations;
 3. to adjust local accounts;
 4. to make partition;
 5. to hold investigation;
 6. to conduct sale; or
 7. to perform ministerial act.
- Powers of Commission
 1. summon and procure attendance
 2. examine documents
 3. enter any places as per order
 4. proceed ex-party
- Expenses
- Limitation
- Report of Commission: Evidentiary Value
- Conclusion:

Arrest before judgment: Order 38 Rules 1 - 4

- Introduction
 - Nature and scope
 - Object
 - Grounds
 1. about to abscond
 2. avoiding process of law
 3. disposing or removing disputed property
 - Discretion of the Court
- Conditions
 1. plaintiff's suit must be bona fide
 2. a real danger to property in dispute
 - Security
 - Where arrest before judgment not allowed?
 - Appeal
 - Revision
 - Arrest on insufficient grounds

Attachment before judgment: Order – 38, Rules 5 - 12

Introduction

Nature and scope

Object

Grounds

Principles

1. defendant is about to dispose his property

2. intention is cause obstruction

- Conditional attachment
- Mode of attachment
- Exemption from attachment
- Rights of third party
- Adjudication of claim
- Reattachment in execution
- Effect of attachment
- Withdrawal of attachment

Attachment before judgment

Determination of attachment

Appeal

Revision

Wrongful attachment

Attachment on insufficient grounds