INDIALAW



CIVIL

Injunctions Under Civil Laws: Understanding the types

Introduction An injunction is a judicial order directing a party to either carry out a particular act or refrain from doing so, with the objective of upholding justice. It is regarded as one of the most significant remedies in civil litigation, and failure to comply with such an order can lead to serious legal consequences, […]

AUTHOR Nidhi Singh, Zoheb Khatri

PUBLISHED 6 July 2023

Introduction

An **injunction** is a judicial order directing a party to either carry out a particular act or refrain from doing so, with the objective of upholding justice. It is regarded as one of the most significant remedies in civil litigation.

Failure to comply with such an order can lead to serious legal consequences, including civil or criminal liability, as well as proceedings for contempt of court.

Table of contents

- Introduction
- Scope of an Injunction and When It Is Invoked
- Types of Injunctions
  - Temporary Injunction
  - Interlocutory (Interim) Injunction
  - Mandatory Injunction
  - Prohibitory Injunction
  - Preliminary (Ad-interim) Injunction
  - Permanent (Perpetual) Injunction
  - Quia Timet Injunction
  - Mareva Injunction
  - Anton Piller Order
  - Dynamic Injunction
- Laws Governing Injunctions
- Conclusion
- Frequently Asked Questions
  - What is an injunction in civil law?
  - What are the three conditions for granting a temporary injunction?
  - What is the difference between a temporary and a permanent injunction?
  - What is a mandatory injunction?

Scope of an Injunction and When It Is Invoked

The scope of an injunction has been judicially shaped through several landmark rulings. In ***Morgan Stanley Mutual Fund v. Kartick Das***[1], the Supreme Court emphasized that courts should exercise caution while granting **ex parte ad-interim injunctions** and ordinarily should not do so without notice to the opposite party, except in exceptional circumstances.

This reflects the principle that interim relief should not be granted behind the back of the affected party unless urgency demands it.

Injunctions are also commonly granted to preserve the *status quo*, particularly in situations where permitting or restraining certain actions is necessary to prevent irreversible harm to one of the parties.

An application for injunction is typically filed where there is a strong likelihood of **irreparable injury**. Irreparable injury refers to harm that cannot be adequately compensated through damages or any other legal remedy.

In ***M. Gurudas v. Rasaranjan***[2], the Court laid down the three essential conditions for granting an injunction:

- Existence of a *prima facie* case
- Balance of convenience in favour of the applicant
- Likelihood of irreparable harm if the injunction is not granted

These principles guide courts in determining whether injunctive relief is warranted in a given case.

Types of Injunctions

Temporary Injunction

A **temporary injunction** is a provisional remedy that restrains a party from performing a particular act for a limited duration, either until the disposal of the suit or until further orders of the court.

It is governed by *Order XXXIX and Section 94(c) & (e) of the Code of Civil Procedure, 1908, along with Section 37(1) of the Specific Relief Act, 1963*, and may be granted at any stage of proceedings.

In ***Agricultural Produce Market Committee v. Girdharbhai R. Chhaniyara***[3], the Court held that such relief can be granted only when the applicant establishes an enforceable legal right.

Interlocutory (Interim) Injunction

An **interlocutory injunction**, often referred to as an interim injunction, is a form of temporary injunction that remains operative during the pendency of the case. Its primary purpose is to preserve the *status quo* until the dispute is finally adjudicated.

Courts generally consider three factors:

- Existence of a *prima facie* case
- Balance of convenience
- Likelihood of irreparable harm

In ***Wander Ltd. v. Antox India Pvt. Ltd.***[4], it was observed that such relief is typically sought at a stage where rights are disputed and yet to be conclusively established.

Mandatory Injunction

A **mandatory injunction** compels a party to perform a specific act and is governed *by Section 39 of the Specific Relief Act, 1963* . It may be:

- **Restorative** — aimed at restoring the original position (*status quo ante*)
- **Enforcing** — requiring the performance of a continuing obligation

In ***Redland Bricks Ltd. v. Morris***[5], it was held that such injunctions are granted cautiously and only when there is strong evidence of likely serious harm.

Prohibitory Injunction

A **prohibitory injunction** restrains a party from committing a specific act. Governed by *Section 38 of the Specific Relief Act, 1963*, it is primarily preventive in nature and seeks to protect legal rights from being infringed.

Preliminary (Ad-interim) Injunction

A **preliminary or ad-interim injunction** is granted at the initial stage of proceedings, often before a full hearing. Its purpose is to preserve the subject matter and maintain *status quo* until the court can pass a more detailed interim or final order.

Permanent (Perpetual) Injunction

A **permanent injunction** is granted through a final decree after full adjudication on merits. It permanently restrains the defendant from violating the plaintiff's rights.

Such injunctions are governed by *Sections 37(2) and 38 of the Specific Relief Act, 1963*.

In ***K. Venkata Rao v. Sunkara Venkata Rao***[6], it was held that a permanent injunction cannot be granted when an equally efficacious alternative remedy exists[7].

Quia Timet Injunction

A ***quia timet* injunction** is preventive in nature and is granted where no actual injury has yet occurred, but there is a strong likelihood of imminent harm.

In ***Angela Drury v. Secretary of State for the Environment, Food and Rural Affairs***[8], the court held that such relief is granted to avert anticipated violations.

The principle was also discussed in ***Redland Bricks Ltd. v. Morris***[9], requiring clear proof of a real threat.

In India, the concept was recognized in ***Mars Incorporated v. Kumar Krishna Mukherjee***[10].

Mareva Injunction

A **Mareva injunction** is an interlocutory order restraining a party from dissipating or transferring assets, ensuring their availability to satisfy a future judgment.

It originated in cases like ***Mareva Compania Naviera SA v. International Bulkcarriers SA***[11] and ***Nippon Yusen Kaisha v. Karageorgis***[12].

In India, similar relief is often granted under Order XXXVIII Rule 5 CPC, and its applicability was recognized in ***Mohit Bhargava v. Bharat Bhushan Bhargava***[13].

Anton Piller Order

An **Anton Piller Order** allows a party to enter the premises of another to inspect and seize evidence, primarily in intellectual property disputes, to prevent destruction of crucial material.

A related concept is the ***John Doe (Ashok Kumar) Order***, used against unknown defendants, particularly in copyright and piracy cases. In India, it was first granted in ***Taj Television Ltd. v. Rajan Mandal***[14].

Dynamic Injunction

A **dynamic injunction** is a modern remedy used mainly in cases of online piracy. It allows courts to extend an existing injunction to mirror or newly created infringing websites without requiring fresh litigation.

This concept was elaborated in ***UTV Software Communication Ltd. v. 1337x***[15], where the court described it as an evolving injunction adapting to technological changes[16].

Laws Governing Injunctions

The law relating to injunctions is well-established within Indian jurisprudence. The provisions governing injunctions, including ex parte ad-interim and temporary injunctions, are primarily contained in *Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908*.

In addition, interim measures that may or may not involve injunctions are addressed under *Order XXXVIII*, particularly **Rule 5**, which deals with furnishing security to prevent frustration of a decree.

Further, the *Specific Relief Act, 1963*[17] provides the substantive framework for injunctions. Section 36 lays down the general principles governing the grant of injunctions, while distinguishing between temporary and perpetual (permanent) injunctions.

The consequences of disobedience of an injunction are prescribed under *Order XXXIX Rule 2A and Section 94(c) of the Code of Civil Procedure*. These provisions empower courts to enforce compliance by imposing sanctions such as **detention in civil prison** and attachment and sale of the violator's property.

Conclusion

With evolving legal needs, Indian jurisprudence has developed a wide range of remedies, particularly in the form of injunctions, to provide timely and effective relief to aggrieved parties. It remains to be seen how these evolving mechanisms will continue to enhance access to justice and effectively safeguard the rights of litigants.

1. 1994 4 SCC 225 (241-242) ??
2. AIR 2006 SC 3275 ??
3. AIR 1997 SC 2674 ??
4. 1990 (2) ARBLR 399 SC, 1990 Supp (1) SCC 727 ??
5. 1970 A.C. 652 ??
6. 1998 960 ALD 278 ??
7. Perpetual injunction when granted and when refused – District Court of … (n.d.). https://districts.ecourts.gov.in/sites/default/files/Subject%20-% ??
8. [2004] EWCA Civ 200. ??
9. 1970 A.C. 652 ??
10. 2003 (26) PTC 60 (Del) ??
11. 1975 EWCA Civ. J0523-5 ??
12. 1975 EWCA Civ. J0522-4 ??

13. 2007 (3) SCJ 735 ??
14. 2003 F.S.R 22 ??
15. 2019 SCC OnLine Del 8002 ??
16. Supra ??
17. The Specific Relief Act, Act no. 47 of 1963 ??

Frequently Asked Questions

What is an injunction in civil law?

An injunction is a judicial order directing a party either to do a particular act or to refrain from doing one, with the objective of upholding justice. It is one of the most significant remedies in civil litigation, and disobedience can lead to civil or criminal liability and contempt of court proceedings.

What are the three conditions for granting a temporary injunction?

As laid down in *M. Gurudas v. Rasaranjan*, a court grants an injunction only where there is (1) a **prima facie case**, (2) the balance of convenience in favour of the applicant, and (3) a likelihood of irreparable harm if the injunction is not granted.

What is the difference between a temporary and a permanent injunction?

A **temporary injunction** is a provisional remedy under Order XXXIX of the CPC and Section 37(1) of the Specific Relief Act, 1963, restraining a party until the disposal of the suit or further orders. A **permanent (perpetual) injunction** is granted by the final decree after the merits are decided, permanently restraining the defendant.

What is a mandatory injunction?

A **mandatory injunction** directs a party to perform a positive act (for example, to restore something to its earlier state) as opposed to a prohibitory injunction, which restrains a party from doing a particular act.

Related Practice Areas

Civil & Commercial Litigation