

C.P.C. : Order - 39

1. During the existing petition of show cause on the basis of application under rule-1 of the C.P.C and **any further application U/S-151** is not maintainable. | *5 XP 288*
2. Trial court has duty to earlier disposal of an application of temporary injunction **without spoiling time**. Otherwise superior court is compelled to pass an **order of Status-quo** till the period of hearing within 60 days. | *5 XP 188 RP-189*
3. Rule-4: Order of injunction passed in the absence of the party having no opportunity of being heard -- such order can be vacated. | *29 DLR 211*
4. Rule-1/2: Principle of law is that when the plaintiff or defendant can show that he has a good prima facie and arguable case and balance of convenience and inconvenience is in the favor of plaintiff or defendant and in that situation court can grant any temporary injunction. | *19 MLR(AD) 273, 5 MLR 234*
5. Rule-1/2: Sut For Declaration of Title: When any temporary injunction is passed by the trial court from the basis of prima facie title and arguable case, in that case temporary injunction order can be continued till disposal of suit. | *19 MLR(AD) 213*
6. Rule-1/2: With Sec-151 of C.P.C. : The defendant No:-1 has **exclusive possession** over the suit land and prima facie shows that she has **muted her name separately and paying regular rent to the government**. Before disposal of the partition suit finally, it is sufficient to prove that the defendant No:-1 has prima facie and arguable case for granting temporary injunction her favor. | *68 DLR 179*
7. Rule-1/2: Partition Suit: In a partition suit where both of the parties are co-sharers of the suit property The HCD directed the parties to maintain **status quo** till disposal of the suit. The Appellate Division declined to interfere with the said order of status quo as the same would meet the ends of justice. | *14 MLR(AD) 111, 37 DLR 302*
8. Status quo on third party not applicable: The Status quo order does not have any binding effect to 3rd party who **was not made a party** of the said suit. | *1 XP(AD) 94*
9. Violation: Injunction violation case is **quasi criminal** in nature it must be proved beyond the reasonable doubt. | *5 XP 1*
10. Rule-1: A person who is aware of the order of the court though not a party to proceeding is bound to obey the same. | *6 MLR(AD) 105, 53 DLR(AD) 70, 2 ALL ER 398*
11. Rule-1/2: Construction of building on land in urban area can be **restrained** when the document of title are forged. | *9 MLR(AD) 314, 21 DLR 41, 9 BLC(AD) 272*
12. Rule-1/2: Order of status quo being an injunction of temporary nature is **appealable** -- Revision does not lie against such order. | *11 MLR(AD) 48*
13. Rule-1/2: Necessary Requirements in Granting Temporary Injunction: In order to get an order of temporary injunction the plaintiff must prove his prima facie title and possession in the suit land and also must show that the balance of convenience and inconvenience is in his favor. When it is found that the plaintiff is not in possession of the suit land, no injunction can be granted. | *14 MLR(HCD) 471*
14. Rule 1/2: Temporary Injunction and Mandatory Injunction: By a long line of decisions it is by now well-settled that mandatory injunction is available if **dispossession takes place during the pendency of the order of ad-interim injunction or temporary injunction** by restoring status quo ante. [*This principle is also applicable in the case of violation of an order of status quo.*] | *2 ALR 424, 45 DLR 762*

15. Rule-1/2: Status quo: Dispute being pending between the parties and there being application for restraining from making **Pucca construction or changing the nature of the suit land**, in facts and circumstances, considered if fit to pass an order directing the parties to maintain status quo. | *4 ALR 265, 41 DLR(AD) 25*
16. Rule-1/2: When Injunction Not Grant: Temporary or ad-interim injunction cannot be granted when the plaintiff has **no subsisting interest** in property in dispute. | *1 MLR(AD) 354*
17. Rule-1/2: When Injunction Not Grant: When **loss can be compensated in money**, no temporary injunction can be granted. | *3 BCR(HCD) 372, 7 BCR(HCD) 180, 35 DLR 293, 29 DLR(SC) 168, 25 DLR 293, 1 BLD(AD) 230, 4 BLD(HCD) 36*
18. Rule-1/2: Must satisfy the Court: In the order to get an order of injunction from any court, the application must satisfy the court that he has a prima facie case and further that there is an obligation in his favor which the defendant owes but threaten to commit breach of such obligation and that unless he gets as order of injunction, his legal right will be frustrated and that the injunction would be irreparable if no such order of injunction is granted | *12BLD(HCD) 78*
19. Rule-1 with section -151 of C.P.C: exparte injunction: The HCD can interfere under its revisional jurisdiction if the lower courts allow exparte interim injunction to continue indefinitely without hearing on temporary injunction pressed by the aggrieved party. | *32 DLR 18*
20. Rule-1: An ad-interim injunction passed expate against the other party -- when the other party appears and prays either for vacating the expate injunction order or for hearing the substantive application -- the court should give the highest priority to such application. | *32 DLR 18*
21. Rule-1: Temporary Injunction that grant likely to Cause Mischief cannot be Granted: When it clear that grant of temporary injunction which the plaintiff shout will really tell upon the internal management of the college itself, the plaintiff is not entitled to such a relief. | *26 DLR 10*
22. Rule-1: Temporary injunction should not ordinarily be granted in cases where **permanent injunction cannot be granted** -- In service matter an employee cannot ask for permanent injunction. | *29 DLR(SC) 168, 18 CWN 92, 38 CWN 771, AIR 1934(Cal) 694, 36 CWN 291*
23. Balance of convenience and inconvenience: Where the question of smooth working of **public administration or national economy** is involved, the rule of balance of convenience is to refuse prayer for temporary injunction. | *29 DLR(SC) 168*
24. Rule-1: Principle Granting Injunction: (i) The plaintiff has to establish prima facie case, (ii) The plaintiff will suffer irreparable loss if not granted, (iii) The balance of convenience and inconvenience is lie in favor of plaintiff. | *35 DLR 25, 22 DLR 655, 22 DLR(SC) 98, 21 PLD(Karachi) 228, 33 DLR 212, 33 DLR(AD) 298, 16 CLJ 47, 18 CWN 176, 37 DLR 102, 3 BLD(HCD) 136, 1 BLD(AD) 103, 12 BLD(HCD) 78, 49 DLR 260*
25. Rule-1: Inherent power of granting temporary injunction. | *35 DLR(AD) 43*
26. Rule-1: Declaration of Title: No consequential relief prayed for . -- No Injunction. | *16 DLR 272* -----|||-----
"Contradictory: Can be granted without consequential relief. | *38 DLR 253, 1 BLD(AD) 57"*
27. Rule-1: Granting injunction is a discretionary one. | *25 DLR 301*
28. Rule-1: Temporary injunction cannot be granted for an **indefinite period** of time. | *25 DLR 274*
29. Rule-1: Vague injunction order incapable of being carried out . | *23 DLR 386*
30. Rule-1: Order or ad-interim injunction will **continue** until further order. | *31 DLR 386*
31. Rule-1: Circumstances: Granting of interlocutory injunction -- circumstances when such injunction can or cannot be granted. | *33 DLR(AD) 298, 33 DLR 212*
32. Rule-1: Election Tribunal: Not competent to grant injunction U/O- 39 of the C.P.C. | *31 DLR 119, 41 DLR 44, 38 DLR 262*
33. Rule-1: Election Tribunal: Principle to be followed in granting injunction in election matters. | *8 BLD(HCD) 377*
34. Rule-2: For granting injunction court **need not to enter into the merits** of the case ... | *28 DLR 415, 39 DLR 310, 5 BLD(HCD) 57, 6 BLD(HCD) 3*

35. Rule-3: Ad-interim injunction order without **notice to the opposite party**, is without jurisdiction. Subsequent order making that order absolute after notice cannot cure defect. | **16 DLR 43**
- ||----- Contradictory: If the object of granting injunction would be defeated by reason of delay for serving notice then the injunction can be **granted without notice**. | **7 DLR 611**
36. When a plaintiff out of possession claims possession, will **not grant injunction** against defendant in possession unless **irreparable damage**. | **23 CWN 672, 29 CLJ 584**
37. An order of injunction is **appealable**. | **AIR 1951(Cal) 446, AIR 1951(All) 558, 58 DLR(AD) 43, 8 BLC 391, 1 BLD(HCD) 93, PLD 1960(Dacca) 153, 29 DLR(SC) 82, AIR 1939(All) 280**
38. **Status quo** order nature of interim injunction is **appealable**. | **58 DLR(AD) 43**
39. No injunction in **partition** suit is case of land in **urban areas** when construction going on by co-sharer. | **8 BLC(AD) 156, 6 BLD(HCD) 326**
40. Long possession Even against a **rightful owner**, --- injunction will lie-- rightful **cannot evict him by force** but will have to established his right by due process. | **36 DLR 242**
41. Sec.-151 of C.P.C. on Temporary Injunction: Direction to Police not Violating Injunction: The trial court passed an order of temporary injunction restraining the opposite party but the opposite party starting construction work causing interference with the petitioner's possession. The court inherent power U/S-151 for implementation the order of injunction to pass an order directed to the police to render aid for not to violated the injunction order. | **1 XP(FR) 3**
42. Order-39 Rule- 1 and 3 with Order-41 Rule -5: At the time of **admission of appeal** appellant court has got the jurisdiction to pass an order **staying operation of ad-interim injunction** passed by the trial court. | **46 DLR 336**
43. Rule 1 and 2: Appellant fully aware that the **matter was sub-judice and status quo** order was operating against them, the appellant had not cared what happen next, not be obey the order of status quo and shown hurry in completion of the construction of the building without waiting for the decision of the court, no vested right has accrued in their favor to claim the protection law. | **3 XP(FR) 1**

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