

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

CIVIL REVISION PETITION NO: 2029 of 2025

Between:

BOYA KISTAMMA, .S/O LATE RAMAPPADU, AGED 75 YEARS,
CULTIVATION, DOOR NO.6-101, BOYAPALEM VILLAGE, NARUVA
PANCHAYAT,RANASTALAM MANDAL,SRIKAKULAM DISTRICT AND
THREE OTHERS.

... PETITIONERS.

AND

BOYA SURI, S/O LATE NARASAYYA, AGED ABOUT 50 YEARS,
CULTIVATION, R/O FLOOR NO. 1-58, BOYAPALEM VILLAGE,
NARUVA PANCHAYAT, RANASTALAM MANDAL, SRIKAKULAM
DISTRICT.

... RESPONDENT.

DATE OF ORDER PRONOUNCED : **10.10.2025**

SUBMITTED FOR APPROVAL:

HONOURABLE SRI JUSTICE SUBBA REDDY SATTI

1. Whether Reporters of Local Newspapers
may be allowed to see the order? : Yes/No
2. Whether the copy of order may be
marked to Law Reporters/Journals? : Yes/No
3. Whether His Lordship wish to
see the fair copy of the order? : Yes/No

JUSTICE SUBBA REDDY SATTI

*** HONOURABLE SRI JUSTICE SUBBA REDDY SATTI**
+ CIVIL REVISION PETITION NO: 2029 of 2025

% 10.10.2025

WRIT PETITION No.2618 of 2024

Between:

BOYA KISTAMMA, .S/O LATE RAMAPPADU, AGED 75 YEARS, CULTIVATION, DOOR NO.6-101, BOYAPALEM VILLAGE, NARUVA PANCHAYAT,RANASTALAM MANDAL,SRIKAKULAM DISTRICT AND THREE OTHERS.

... PETITIONERS.

AND

BOYA SURI, S/O LATE NARASAYYA, AGED ABOUT 50 YEARS, CULTIVATION, R/O FLOOR NO. 1-58, BOYAPALEM VILLAGE, NARUVA PANCHAYAT, RANASTALAM MANDAL, SRIKAKULAM DISTRICT.

... RESPONDENT.

! Counsel for Petitioners : Sri PARDHA SARADHI A.V.

^ Counsel for Respondent : Sri TOTA TEJESWARA RAO

< Gist:

> Head Note:

? Cases referred:

- 1) 1975 (1) ALL ER 504
- 2) AIR 1958 SC 79
- 3) (1992) 1 SCC 719
- 4) (1995) 5 SCC 545
- 5) (2024) 7 SCC 183
- 6) (2010) 1 SCC 689
- 7) 1990 Supp SCC 727
- 8) (2001) 5 SCC 568
- 9) (1993) 3 SCC 161
- 10) (2006) 5 SCC 282
- 11) 1987 Supp SCC 394
- 12) AIR 2006 SC 1474
- 13) 2024 SCC OnLine SC 3538
- 14) (2013) 1 SCC 634

This Court made the following:

APHC010402312025



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3331]

FRIDAY, THE TENTH DAY OF OCTOBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE SUBBA REDDY SATTI

CIVIL REVISION PETITION NO: 2029 of 2025

Between:

1. BOYA KISTAMMA, .S/O LATE RAMAPPADU, AGED 75 YEARS, CULTIVATION, DOOR NO.6-101, BOYAPALEM VILLAGE, NARUVA PANCHAYAT, RANASTALAM MANDAL, SRIKAKULAM DISTRICT.
2. BOYA SUNDAR, S/O KISTAMMA, AGED 55 YEARS. CULTIVATION, DOOR NO.6-101, BOYAPALEM VILLAGE, NARUVA PANCHAYAT, RANASTALAM MANDAL, SRIKAKULAM DISTRICT.
3. BOYA PRAKASH, S/O KISTAMMA, AGED 55 YEARS, CULTIVATION, DOOR NO.6-101, BOYAPALEM VILLAGE, NARUVA PANCHAYAT, RANASTALAM MANDAL, SRIKAKULAM DISTRICT.
4. BOYA SWAMI NAIDU, S/O LATE RAMAPPADU, AGED 72 YEARS. CULTIVATION, DOOR NO.6-101, BOYAPALEM VILLAGE, NARUVA PANCHAYAT, RANASTALAM MANDAL, SRIKAKULAM DISTRICT.

...PETITIONER(S)

AND

1. BOYA SURI, S/O LATE NARASAYYA, AGED ABOUT 50 YEARS, CULTIVATION, R/O FLOOR NO. 1-58, BOYAPALEM VILLAGE,

NARUVA PANCHAYAT, RANASTALAM MANDAL, SRIKAKULAM DISTRICT.

...RESPONDENT

Petition under Article 227 of the Constitution of India, praying that in the circumstances stated in the grounds filed herein, the High Court may be pleased to set aside the impugned order dated 16.6.2025 passed in C.M.A.No.01 of 2025 by the I Additional District Judge Srikakulam

IA NO: 1 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the operation of the impugned order dated 16.6.2025 passed in C.M.A.No.01 of 2025 by the I Additional District Judge Srikakulam, pending disposal of the main CRP, and pass

Counsel for the Petitioner(S):

1.PARDHA SARADHI A V

Counsel for the Respondent:

1.TOTA TEJESWARA RAO

The Court made the following:

ORDER

Defendants in the suit filed the above revision assailing the order, dated 16.06.2025, in C.M.A.No.01 of 2025 on the file of learned I Additional District Judge, Srikakulam, preferred against the order dated 25.09.2023 in I.A.No.39 of 2023 in O.S.No.58 of 2023, on the file of learned I Additional Civil (Junior Division), Srikakulam.

2. The parties to the revision are referred to as per their status in the suit O.S.No.58 of 2023.

3. The plaintiff filed suit O.S.No.58 of 2023 on the file of Principal Junior Civil Judge, Srikakulam, seeking perpetual injunction against the defendants. Along with the suit, the plaintiff filed I.A.No.39 of 2023 under Order XXXIX, Rules 1 and 2 of the Code of Civil Procedure, 1908 (for short 'C.P.C.'), seeking an ad-interim injunction.

4. In the affidavit, filed in support I.A.No.39 of 2023, it was pleaded that the plaintiff's father had an ancestral property in the village and plaintiff possesses land of an extent of Ac.00-52 cents, Ac.00-71 cents and Ac.00-30 cents, in survey Nos.43-1-A-2, 4-3-A and 4-3-A, respectively (totalling Ac.1-53 cents). The plaint/petition schedule property consists of two items i.e. item No.1 is land of an extent of Ac.00-52 cents in survey No.43-1-A-2; and item No.2 is land of an extent of Ac.00-71 cents and Ac.00-30 cents in survey Nos 4-3-A and 4-3-B, respectively. The plaintiff has been in possession and enjoyment of the said land without any obstruction. The Tahsildar, Ranastalam Mandal, updated the Record of Rights (ROR) in respect of land of an extent of Ac.00-52 cents and Ac.00-30 cents, referred supra and issued the pattadar passbook. The Government released rythu barosa, and the plaintiff obtained loan from APGV bank, for which the plaintiff has been paying instalments. The plaintiff approached the Tahsildar and requested him to update his name with respect to Ac.00-71 cents of land in survey No.4-3-A. Defendants 1 to 4 are creating obstructions, and they, being influenced persons, are forcibly trying to trespass into the land and evict the plaintiff. Hence, filed the above suit and interlocutory application.

5. The Trial Court initially granted an *ad-interim* injunction on 04.02.2023 in I.A.No.39 of 2023.

6. Defendant No.3 filed a written statement in the suit and a counter in the interlocutory application. It was contended, *inter alia*, that the plaintiff is the son of the brother of defendant No.1. The plaintiff's father, defendant No.1 and defendant No.4 are brothers. They separated the properties long ago and have been enjoying respective properties. The defendants denied the plaintiff's possession of Ac.00-52 cents in survey No.43-1-A-2. It was specifically pleaded that Ac.1-90 cents in survey No.43/1P belong to defendant No.1, Boya Kistamma. The Government issued a pattadar passbook and title deed in favour of defendant No.1, and she has been in possession and enjoyment of the said land by paying cists from 1979 onwards. The government also issued the e-pattadar passbook on 29.10.2015. The plaintiff influenced the village officials and got his name mutated in respect of part of the land in Ac.1-90 cents in survey No.43-1. The defendants, after coming to know about the same, approached MRO, Ranasthalam, but no action has been taken. The defendants have been in possession and enjoyment of Ac.1-90 cents. They specifically pleaded that they have nothing to do with item No.2 of the plaint/petition schedule property.

7. During the enquiry, the plaintiff marked Exs.P1 to P5 and no documents were marked on behalf of the defendants.

8. The Trial Court, by order, dated 25.09.2023, disposed of the said interlocutory application, modifying the ad-interim injunction granted on 04.02.2023 as *status quo* and directed the parties to maintain *status quo* till disposal of the suit.

9. Assailing the order, dated 25.09.2023, the plaintiff filed C.M.A.No.1 of 2025 on the file of the learned I Additional District Judge, Srikakulam.

10. In said C.M.A., the defendants got marked Exs.R1 to R5. The Appellate Court allowed the said C.M.A., by order dated 16.06.2025 and granted a temporary injunction. Assailing the same, the above revision has been filed.

11. Heard Sri A.V.Pardhasaradhi, learned counsel for the petitioners/defendants and Sri Tota Tejeswara Rao, learned counsel for the respondent/plaintiff.

12. Learned counsel for the petitioners/defendants would contend that the appellate Court exceeded its jurisdiction and allowed the appeal filed by the plaintiff and granted a temporary injunction in favour of the plaintiff. He further contended that the plaintiff failed to prove exclusive possession over item No.1 of the plaint/petition schedule property. Without considering the same, the Appellate Court granted the temporary injunction. He would also contend that the appellate Court failed to consider the defendants' possession of the land and cultivation.

13. Learned counsel for the respondent/plaintiff supported the order passed by the appellate Court.

14. The point for consideration is:

Whether the order dated 16.06.2025 in C.M.A.No.01 of 2025 passed by the learned I Additional District Judge, Srikakulam, granting temporary injunction, suffers from any illegality, warranting the interference of this Court?

15. Shorn of all details, as seen from the plaint/petition schedule, it consists of two items. Insofar as item No.2 is concerned, the defendants, in the counter-affidavit, pleaded that they have nothing to do with said

property. In fact, the same was reiterated in their written statement also. Thus, the dispute between the plaintiff on one hand and the defendants on the other hand relates to item No.1, i.e. Ac.00-52 cents in survey No.43-1-A-2, Naruva village.

16. Order XXXIX CPC outlines temporary injunction and interlocutory orders. Rule 1 of Order XXXIX prescribes the cases in which a temporary injunction may be granted. Part III, Chapter VII of the Specific Relief Act, 1963 (for short 'the Act') deals with injunctions generally. While Section 36 prescribes how preventive relief can be granted, Section 37 of the Act deals with temporary and perpetual injunctions.

17. The grant of an injunction is discretionary, and the same must be exercised on the settled principles of law to advance the cause of justice. The cardinal principles and the trinity test for the grant of an injunction are:

- (i) Whether the plaintiff has a *prima facie* case?
- (ii) Whether the balance of convenience lies in favour of the plaintiff?
- (iii) Whether the plaintiff would suffer irreparable injury if his prayer for an interlocutory injunction is disallowed?

18. An injunction is a judicial process by which a party is required to do or refrain from doing any particular act. It is like a preventive relief to a litigant to prevent future possible injury. The decision whether or not to grant an injunction must be taken at a time when the existence of the legal right asserted by the plaintiff and its alleged violation, both contested and remain uncertain till they are established in trial, on evidence.

19. The relief, by way of interlocutory injunction, needs to be granted to mitigate injustice to the plaintiff during the period before the uncertainty can be resolved. The object of ad-interim/exparte/temporary injunction is to protect the plaintiff against an injury by violation of its right, for which it cannot be adequately compensated in damages if the uncertainty were to be resolved at the trial.

20. Many a time, trial Courts are confused between '*prima facie* case' and '*prima facie* title', while adjudicating the interlocutory applications filed under Order XXXIX, Rules 1 and 2 C.P.C. The expression '*prima facie* case' is derived from the Latin expression, which means at first sight or based on first impression or on the face of it.

21. The House of Lords in **American Cyanamid Co. and Ethicon Ltd.**¹, while dealing with the scope and ambit of the expression '*prima facie* case', held as under:

“The use of such expressions as “a probability,” “a *prima facie* case” or “a strong *prima facie* case” in the context of the exercise of a discretionary power to grant an interlocutory injunction leads to confusion as to the object sought to be achieved by this form of temporary relief. The court no doubt must be satisfied that the claim is not frivolous or vexatious, in other words, that there is a serious question to be tried.

It is no part of the court's function at this stage of the litigation to try to resolve conflicts of evidence on affidavit as to facts on which the claims of either party may ultimately depend not to decide difficult questions of law which call for detailed argument and mature considerations. These are matters to be dealt with at the trial. One of the reasons for the introduction of the practice of

¹ 1975 (1) ALL ER 504

requiring an undertaking as to damages upon the grant of an interlocutory injunction was that “it aided the court in doing that which was its great object, viz. abstaining from expressing any opinion upon the merits of the case until the hearing” : Wakefield v. Duke of Buccleugh (1865) 12 L.T. 628, 629. So unless the material available to the court at the hearing of the application for an interlocutory injunction fails to disclose that the plaintiff has any real prospect of succeeding in his claim for a permanent injunction at the trial, the court should go on to consider whether the balance of convenience lies in favour of granting or refusing the interlocutory relief that is sought.”

22. The Hon’ble Apex Court, about seven decades back, considered the meaning of the expression of ‘*prima facie* case’ in **Martin Burn Ltd. vs. R.N. Banerjee**² and observed as under:

“A *prima facie* case does not mean a case proved to the hilt, but a case which can be said to be established if the evidence which is led in support of the same were believed. While determining whether a *prima facie* case had been made out, the relevant consideration is whether on the evidence let it was possible to arrive at the conclusion in question and as to whether that was the only conclusion which could be arrived at on that evidence.”

23. Thereafter, in **Dalpat Kumar and Anr Vs. Prahlad Singh and Ors.**³, the Hon’ble Apex Court observed that the *prima facie* case is a substantial question raised bona fide, which needs investigation and decision on merits and the expression ‘*prima facie* case’ is not to be

² AIR 1958 SC 79

³ (1992) 1 SCC 719

confused with *prima facie title*, which has to be established, on evidence at the trial.

24. The Hon'ble Apex Court, in **Gujarat Bottling Co. Ltd. and Others vs. Coca Cola Co. and Others**⁴, elucidated the meaning of expression '*prima facie case*' to mean that the Court should be satisfied that there is a serious question to be tried at the hearing, and there is a probability of the plaintiff obtaining the relief at the conclusion of the trial, based on the material placed before the Court. The Hon'ble Apex Court observed that the expression '*prima facie case*' means a substantial question raised *bona fide* which needs investigation and decision on merits, and the Court, at the initial stage, cannot insist upon a full proof case warranting an eventual decree.

25. The Hon'ble Apex Court again considered this aspect in **State of Kerala vs. Union of India**⁵.

26. The Hon'ble Apex Court in **Kashi Math Samsthan and another vs. Srimad Sudhindra Thirtha Swamy and another**⁶ cautioned that a *prima facie case* is '*sine qua non*' for the grant interlocutory order (injunction). Mere satisfying the balance of convenience and irreparable loss is not sufficient unless the party establishes a *prima facie case*. In para 16 of the judgment, it was observed as follows:

“16. It is well settled that in order to obtain an order of injunction, the party who seeks for grant of such injunction has to prove that he has made out a *prima facie case* to go for trial, the balance of convenience is also in his favour and he will suffer irreparable

⁴ (1995) 5 SCC 545

⁵ (2024) 7 SCC 183

⁶ (2010) 1 SCC 689

loss and injury if injunction is not granted. But it is equally well settled that when a party fails to prove *prima facie* case to go for trial, question of considering the balance of convenience or irreparable loss and injury to the party concerned would not be material at all, that is to say, if that party fails to prove *prima facie* case to go for trial, it is not open to the court to grant injunction in his favour even if, he has made out a case of balance of convenience being in his favour and would suffer irreparable loss and injury if no injunction order is granted....”

27. Thus, a perusal of expressions of the Hon'ble Apex Court, while determining whether a '*prima facie*' case has been made out or not, the relevant consideration is: on the evidence let, it was possible to conclude the question and as to whether that was the only conclusion which could be arrived at on that evidence; the Court must be satisfied that the claim is not frivolous, and it should be satisfied that there is a serious question to be tried. '*Prima facie* case' should not be confused with '*prima facie* title', which has to be established on evidence at the trial. The court need not conduct a mini-trial at this stage.

28. The second ingredient is 'balance of convenience'. While considering the balance of convenience, the Courts must ponder the interests of both parties to the litigation. The courts must weigh one need against another and determine where the balance of convenience lies.

29. The first is to protect the plaintiff against the injury by violation of his rights for which he could not be adequately compensated for damages recoverable in the action if the uncertainty were to be resolved in his favour. The other is that the defendant needs 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 by an undertaking if the uncertainty were to be resolved in the defendant's favour at the trial.

30. In **Wander Limited vs. Antox India Pvt. Ltd.**⁷, the Hon'ble Apex Court while considering the test of balance of convenience held that the need to protect the plaintiff against the injury by violation of his right for which he cannot be compensated in damages recoverable in the action if the uncertainty were to be resolved in his favour has to be weighed against the corresponding need of the defendant to be protected against injury resulting from his having been prevented from exercising his legal rights for which he would not be adequately compensated.

31. The third ingredient is 'irreparable loss'. The Court must satisfy itself that in case, an injunction as prayed is not granted, the party seeking it will suffer irreparable injury. The Hon'ble Apex Court in **M/s. Gujarat Bottling Co. Ltd. (supra)**, considered the aspect of 'irreparable injury' and held that the Court is required to satisfy itself that the party seeking an injunction needs protection from the consequences of apprehended injury and the injury is such that it cannot be adequately compensated by way of damages. The Court requires to satisfy itself that, in case an injunction, as prayed for, is not granted, the party seeking the same will suffer irreparable injury.

32. Thus, a conspectus of the authorities referred to supra and discussion, is a "*prima facie* case", which necessitates that, as per the material placed on record, the plaintiff is likely to succeed in the final determination of the case and there exists a triable issue; the "Balance of

⁷ 1990 Supp SCC 727

convenience”, such that the prejudice likely to be caused to the plaintiff due to rejection of the interim relief will be higher than the inconvenience that the defendant may face if the relief is so granted; and the “Irreparable injury”, which means that if the relief is not granted, the plaintiff will face an irreversible injury that cannot be compensated in monetary terms.

33. It is also a settled principle of law that a party approaching the Court is not entitled to an order of injunction as a matter of right. The grant of an interim injunction/permanent injunction is discretionary in nature. A person approaching the Court with unclean hands or by suppressing facts will normally not be granted an order of temporary injunction by the Court.

34. Very often, this court perceives that the learned trial Courts are conducting a mini-trial while adjudicating the injunction applications. In fact, courts need not conduct a mini-trial. See **Anand Prasad Agarwalla Vs Tarkeshwar Parsad and others**⁸.

35. In **Shiv Kumar Chadha Etc. vs. Municipal Corporation of Delhi**⁹, the Hon’ble Apex Court held that the grant of an interlocutory application is a remedy that is discretionary in nature. However, such a discretion must be exercised on the touchstone of the trinity test viz., *prima facie* case, balance of convenience and irreparable injury.

36. The Hon’ble Apex Court in **Seema Arshad Zaheer vs. Municipal Corporation of Greater Mumbai**¹⁰, held that it is an equally well-settled proposition that the temporary injunction being equitable relief, the

⁸ (2001) 5 SCC 568

⁹ (1993) 3 SCC 161

¹⁰ (2006) 5 SCC 282

discretion to grant such relief will be exercised only when the plaintiff's conduct is free from blame and he approaches the Court with clean hands.

37. In the case at hand, the plaintiff approached the Court seeking a perpetual injunction. The plaintiff relied upon Exs.P1 to P5, and the defendants relied upon Exs.R1 to R5. Initially, an ad-interim injunction was granted on 04.02.2023 and the same was continued up to 25.09.2023, the disposal of I.A.No.39 of 2023. Ex.P1 is Pattadar passbook, and Ex.P3 is adangal/pahani. The said documents *prima facie* disclose the possession of the plaintiff over an extent of Ac.00-52 cents in survey No.43-1-A-2. Both the exhibits were downloaded on 13.01.2023.

38. In C.M.A., the defendants, in support of their case, filed Exs.R1 and R4. They are dated **21.09.2015** and **16.04.1979**, respectively. In Ex.R1, an extent of Ac.1-90 cents of land in survey No.43-1 has been reflected in the name of defendant No.1. In Ex.R4, an extent of Ac.1-33 cents in survey No.43-1-A-3 stands in the name of defendant No.1.

39. Thus, a perusal of Exs.P1 and P3 on one hand and Ex.R4 on the other hand, *prima facie* demonstrates his possession over Ac.00-52 cents of land in survey No.43-1-A-2 and possession of defendant No.1 over Ac.1-33 cents of land in survey No.43-1-A-3. Thus, the appellate Court is *prima facie* satisfied regarding the plaintiff's possession over the plaint/petition schedule property, based on the revenue records. The genuineness or otherwise of the revenue records will be adjudicated at the trial, and the competent Civil Court will record a finding thereafter.

40. This Court is conscious of the fact that at the interlocutory stage, no finding will be recorded regarding the title aspect while considering an application for the grant of an interim injunction/temporary injunction.

Whether an order of status quo can be granted without recording a finding *qua* the possession?

41. That being the factual and legal matrix, the trial Court, while modifying the ad-interim injunction initially granted, altered the same into status quo and disposed of the interlocutory application. The course adopted by the trial court, in the considered opinion of this court, is not legally acceptable.

42. The phrase '*status quo*' has not been defined in the Code of Civil Procedure or other allied Statutes.

43. In ***Wharton's Law Lexicon, 14th Edn.***, a *status quo* has been defined as:

"The existing state of things at any given date; e.g., *Status quo ante bellum*, the state of things before the war."

44. According to ***Black's Law Dictionary, 6th Edn.***, *status quo* has been defined as under:

"The existing state of things at any given date. *Status quo ante bellum*, the state of things before the war. 'Status quo' to be preserved by a preliminary injunction is the last actual, peaceable, uncontested status which preceded the pending controversy."

45. The Hon'ble Apex Court in ***Bharat Coking Coal Ltd. Vs. State of Bihar***¹¹, considered the expression '*status quo*', and observed as follows:

¹¹ 1987 Supp SCC 394

“5. The expression “status quo” is undoubtedly a term of ambiguity and at times gives rise to doubt and difficulty. According to the ordinary legal connotation, the term “status quo” implies the existing state of things at any given point of time.”

46. In **Kishore Kumar Khatiar Vs. Praveen Kumar Singh**¹², the Hon'ble Apex Court held that an order of status quo cannot be passed on the asking, without recording what status was to be maintained. It is of no use to pass an order of status quo without indicating the status of the property i.e. what is to be preserved.

47. This Court observes that many times, the learned trial courts developed a tendency to take a short-cut method of granting status quo without determining the status of the parties. While ordering Status-Quo, the court must state in unequivocal terms what the Status-Quo is. The Court must state whether the Plaintiff or the defendant is in possession. Granting the order of status quo without recording the possession, in the considered opinion of this court, would leave the matter in doubt and ambiguity, and it would result in dangerous consequences.

48. It is desirable and appropriate that when the court intends to pass an order of status quo concerning the possession, the court must record a finding as to who is in possession of the property. If the court is convinced, based upon the material, regarding prima facie possession of the plaintiff, the status quo regarding possession of the suit property shall continue till further order or disposal of the suit. But a finding to that effect must be recorded.

¹² AIR 2006 SC 1474

49. If the order of status quo relates to the nature and character of the suit property and the property has to be preserved till disposal of the suit, then also before passing an order of status quo in respect of the nature and character of the property, the conditions thereof obtaining on that date must be indicated (i.e. Demolition and Dispossession). But passing an order of status quo without indicating the status is a shortcut procedure, and such a type of order will further frustrate and complicate the issues. Such a vague order of status quo without indicating status by the civil courts cannot be encouraged at any cost because such an order unnecessarily creates multiplicity of disputes, and such a vague order of status quo does not render any effective service to the litigants. Such orders, instead of advancing the cause of justice, are creating problematic situations, where the litigants are filing one petition after another without knowing where to seek justice.

50. Thus, the order under appeal, granting a temporary injunction pending trial, in the considered opinion of this court, does not suffer from any perversity.

51. The learned counsel for the revision petitioner canvassed that the appellant ought not to have interfered with the order of the trial court, and such an interference is uncalled for. The scope of appeal under Order 43 CPC, *vis-à-vis* temporary injunction, is no longer *res integra*.

52. In **Wander Ltd.'s case (supra)** the Hon'ble Apex Court considered the scope of appeal against an order of temporary injunction and observed as under:

“14. The appeals before the Division Bench were against the exercise of discretion by the Single Judge. In such appeals, the

appellate court will not interfere with the exercise of discretion of the court of first instance and substitute its own discretion except where the discretion has been shown to have been exercised arbitrarily, or capriciously or perversely or where the court had ignored the settled principles of law regulating grant or refusal of interlocutory injunctions. An appeal against exercise of discretion is said to be an appeal on principle. Appellate court will not reassess the material and seek to reach a conclusion different from the one reached by the court below if the one reached by that court was reasonably possible on the material. The appellate court would normally not be justified in interfering with the exercise of discretion under appeal solely on the ground that if it had considered the matter at the trial stage it would have come to a contrary conclusion. If the discretion has been exercised by the trial court reasonably and in a judicial manner the fact that the appellate court would have taken a different view may not justify interference with the trial court's exercise of discretion. After referring to these principles Gajendragadkar, J. in *Printers (Mysore) Private Ltd. v. Pothan Joseph* [(1960) 3 SCR 713 : AIR 1960 SC 1156] : (SCR 721)

“... These principles are well established, but as has been observed by Viscount Simon in *Charles Oseinton & Co. v. Jhanaton* [1942 AC 130] ‘...the law as to the reversal by a court of appeal of an order made by a judge below in the exercise of his discretion is well established, and any difficulty that arises is due only to the application of well settled principles in an individual case’.”

The appellate judgment does not seem to defer to this principle.

53. The Hon'ble Supreme Court in **Ramakant Ambalal Choksi Vs. Harish Ambalal Choksi and Others**¹³ dealt with the scope of appellate jurisdiction of the Court dealing with an appeal against an order of injunction and approved the principles laid down in **Wander Limited (Supra)** and referred to the decision in **Shyam Sel and Power Limited and another vs. Shyam Steel Industries Limited**¹⁴, held as under in paragraph 21, 26, 30, 32 35, 36, 37:

“21. The law in relation to the scope of an appeal against grant or non-grant of interim injunction was laid down by this Court in *Wander Ltd. v. Antox India P. Ltd.*, 1990 Supp SCC 727. Antox brought an action of passing off against Wander with respect to the mark Cal-De-Ce. The trial court declined Antox's plea for an interim injunction, however, on appeal the High Court reversed the findings of the trial judge. This Court, upon due consideration of the matter, took notice of two egregious errors said to have been committed by the High Court:

- a. First, as regards the scope and nature of the appeals before it and the limitations on the powers of the appellate court to substitute its own discretion in an appeal preferred against a discretionary order; and
- b. Secondly, the weakness in ratiocination as to the quality of Antox's alleged user of the trademark on which the passing off action is founded.

26. What flows from a plain reading of the decisions in *Evans (supra)* and *Charles Osenton (supra)* is that an appellate court, even while deciding an appeal against a discretionary order granting an interim injunction, has to:

¹³ 2024 SCC Online SC 3538

¹⁴ (2023) 1 SCC 634

- a. Examine whether the discretion has been properly exercised, i.e. examine whether the discretion exercised is not arbitrary, capricious or contrary to the principles of law; and
- b. In addition to the above, an appellate court may in a given case have to adjudicate on facts even in such discretionary orders.

30. This Court in **Shyam Sel & Power Ltd. v. Shyam Steel Industries Ltd.**, (2023) 1 SCC 634 observed that the hierarchy of the trial court and the appellate court exists so that the trial court exercises its discretion upon the settled principles of law. An appellate court, after the findings of the trial court are recorded, has an advantage of appreciating the view taken by the trial judge and examining the correctness or otherwise thereof within the limited area available. It further observed that if the appellate court itself decides the matters required to be decided by the trial court, there would be no necessity to have the hierarchy of courts.

32. The appellate court in an appeal from an interlocutory order granting or declining to grant interim injunction is only required to adjudicate the validity of such order applying the well settled principles governing the scope of jurisdiction of appellate court under Order 43 of the CPC which have been reiterated in various other decisions of this Court. The appellate court should not assume unlimited jurisdiction and should guide its powers within the contours laid down in the *Wander* (supra) case.

35. Any order made in conscious violation of pleading and law is a perverse order. In *Moffett v. Gough*, (1878) 1 LR 1r 331, the Court observed that a perverse verdict may probably be defined as one that is not only against the weight of evidence but is altogether against the evidence. In **Godfrey v. Godfrey**, 106 NW

814, the Court defined "perverse" as "turned the wrong way"; not right; distorted from the right; turned away or deviating from what is right, proper, correct, etc.

36. The expression "perverse" has been defined by various dictionaries in the following manner:

a. Oxford Advanced Learner's Dictionary of Current English, 6th Ed.

Perverse: Showing deliberate determination to behave in a way that most people think is wrong, unacceptable or unreasonable.

b. Longman Dictionary of Contemporary English International Edition: Perverse: Deliberately departing from what is normal and reasonable.

c. The New Oxford Dictionary of English 1998 Edition Perverse Law (of a verdict) against the weight of evidence or the direction of the judge on a point of law.

d. New Webster's Dictionary of the English Language (Deluxe Encyclopedic Edition) Perverse Purposely deviating from accepted or expected behavior or opinion; wicked or wayward; stubborn; cross or petulant.

e. Stroud's Judicial Dictionary of Words & Phrases, 4th Ed. Perverse A perverse verdict may probably be defined as one that is not only against the weight of evidence but is altogether against the evidence.

37. The wrong finding should stem out on a complete misreading of evidence or it should be based only on conjectures and surmises. Safest approach on perversity is the classic approach on the reasonable man's inference on the facts. To him, if the conclusion on the facts in evidence made by the court below is possible, there is no perversity. If not, the finding is perverse.

Inadequacy of evidence or a different reading of evidence is not perversity. (See: **Damodar Lal v. Sohan Devi**, (2016) 3 SCC 78).”

54. In the case at hand, the trial Court failed to exercise the jurisdiction vested with it. In fact, as pointed out *supra*, the trial Court directed the parties to maintain the status quo without recording a finding as to possession of the property and thereby committed irregularity. Hence, the appellate Court corrected the same by exercising appellate jurisdiction. The appellate Court did not substitute its decision. The appellate Court, in fact, considered the documents and strictly adhered to the trinity principles.

Whether the plaintiff/petitioner, who had the benefit of the temporary injunction without sufficient reasons liable to compensate the other side?

55. In case the suit is dismissed, and that judgment becomes final, the Code of Civil Procedure safeguards the interest of the defendant/s by way of Section 95 C.P.C. It is apt to extract the sections which read as follows:

95. Compensation for obtaining arrest, attachment or **injunction** on insufficient grounds.- (1) Where, in any suit in which an arrest or attachment has been effected or **a temporary injunction granted** under the last preceding section,-

(a) it appears to the Court that such arrest, attachment **or injunction** was applied for on insufficient grounds, or

(b) the suit of the plaintiff fails and it appears to the Court that there was no reasonable or probable grounds for instituting the same,

the defendant may apply to the Court, and the Court may, upon such application, award against the plaintiff by its order such amount, [not exceeding fifty thousand rupees], as it deems a reasonable compensation to the defendant for the [expense or injury (including injury to reputation) caused to him];

Provided that a Court shall not award, under this section, an amount exceeding the limits of its pecuniary jurisdiction.

(2) An order determining any such application shall bar any suit for compensation in respect of such arrest, attachment or **injunction.**
(emphasis is mine)

56. Insofar as the State of Andhra Pradesh is concerned, Order XXXIX Rule 3 CPC was amended by adding Rule 3A and 3B. Rules 3A and 3B read thus:

3A. In any case where a temporary injunction is granted, the Court may, at the time of the Order, or at any time during the pendency of the injunction, call upon the applicant to furnish security for the amount of damages that the Court may determine as payable by the party obtaining the injunction to the other party as compensation for any injury or loss that may be sustained by the latter by reason of the injunction.

3B. The Court shall, on application made after the disposal of the suit, determine the amount payable under rule 3A and make an Order awarding it to the applicant."

57. Thus, a perusal of Section 95 CPC and Order XXXIX Rule 3B CPC (state amendment) allows the defendant to apply for compensation only after the suit is dismissed. Whereas, Order XXXIX Rules 3A (AP State

Amendment), empowers the Courts to call upon the applicant to furnish security for the amount of damages at any time pending the injunction. Of course, the language 'may' employed in the provision cautions the courts to exercise the jurisdiction in appropriate cases.

58. While Section 95 and Order XXXIX Rule 3B (A.P.State Amendment) operates post-adjudication upon an application after final judgment, Order XXXIX Rule 3A (AP State Amendment) enables the Court to call upon the applicant to furnish security for the amount of damages at the interlocutory stage itself. Thus, the legislature safeguarded the interests of both parties to litigation.

59. In the case at hand, as stated *supra*, the appellate Court, having granted a temporary injunction, ought to have called upon the plaintiff to file an affidavit offering security in terms of Rule 3A of Order XXXIX (State Amendment). If such a course had been adopted, it would have safeguarded the interests of the defendants.

60. Though the revision is filed by the defendants assailing the order of the appellate court granting temporary injunction, since the appellate court failed to exercise the jurisdiction vested with it i.e. calling upon the plaintiff to offer security in terms of Order XXXIX Rule 3A (State Amendment), while exercising the revisional jurisdiction under Article 227 of the Constitution of India, this Court certainly, in the interest of both the parties, can direct the plaintiff to file an affidavit in terms of Order XXXIX Rule 3A (State Amendment) before the trial court. Accordingly, the plaintiff is directed to file an undertaking affidavit before the Trial Court within four weeks from the date of receipt of a copy of the order.

61. Given the above discussion, this Civil Revision Petition is dismissed. No order as to costs.

Observations, if any, in the order, made only for the purpose of disposal of the interlocutory application and will not influence or come in the way of trial Court in disposing of the suit on merits.

As a sequel, pending miscellaneous petitions, if any, shall stand closed.

JUSTICE SUBBA REDDY SATTI

Date: 10.10.2025

NOTE: LR Copy to be marked
B/O
IKN