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Perpetual injunctions are granted at the final hearing of a suit and serve to finally determine the rights of the parties involved. The defendant is permanently restrained from asserting a right or committing an act that would contravene the plaintiff's rights [Section 37(2)].

The provisions governing perpetual injunctions are outlined in the Specific Relief Act, particularly Sections 38 to 42.

Perpetual Injunction: When Granted (Section 38)

1. Breach of Obligation: A perpetual injunction may be granted to the plaintiff to prevent the breach of an obligation existing in their favour, whether expressly stated or implied.

2. Obligations Arising from Contract: If the obligation arises from a contract, the court will follow the rules and provisions outlined in Chapter II of the Specific Relief Act, which deals with the specific performance of contracts.

3. Invasion of Plaintiff's Right to Property: The court may grant a perpetual injunction in cases where the defendant invades or threatens to invade the plaintiff's right to or enjoyment of their property. This includes situations where:

    - The defendant is a trustee of the plaintiff's property.

    - There is no standard for determining the actual damage caused or likely to be caused by the invasion.

    - The invasion is such that monetary compensation would not provide adequate relief.

    - The injunction is necessary to prevent a multiplicity of judicial proceedings, such as successive encroachments on the plaintiff's rights by the defendants.

Basis and Considerations

The grant of a perpetual injunction is discretionary and equitable, and it is subject to the principle that he who seeks equity must come with clean hands. The party seeking an injunction must have a right that the opposing party is attempting to violate, or there must be an obligation in the plaintiff's favour, whether it arises from a contract, trust, or other legal duty.

The obligation referred to in Section 38(1) must be a legal duty enforceable by law. This could include contractual obligations, duties arising from trusts, obligations amounting to torts or civil wrongs, or any other legal obligation. However, not every breach of natural justice will result in a successful injunction action.

Regarding contracts, the court is guided by the rules for specific performance outlined in Chapter II of the Specific Relief Act. An injunction cannot be granted to prevent the breach of a contract that cannot be specifically enforced, such as contracts dependent on personal qualifications or volition. However, wrongful expulsion from a club or trade union may be restrained by injunction.

An injunction may be granted in cases where there is an invasion or threatened invasion of the plaintiff's right to or enjoyment of property, as outlined in Section 38(3). The court may grant an injunction in specific circumstances, even if compensation in money would be adequate relief.

Before granting an injunction, the court must determine whether there is an actual or threatened invasion of the plaintiff's rights or enjoyment of property. Mere apprehension of injury is not sufficient; there must be a violation of the plaintiff's rights or a foreseeable injury resulting from the defendant's actions.

The enjoyment of the plaintiff's property must be materially affected by the defendant's actions, and there must be a legal duty owed by the defendant to the plaintiff. Additionally, injunctions cannot be granted against individuals who are not parties to the action, but aiding and abetting a party against whom an injunction has been granted may be addressed through contempt proceedings.

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Illustrations Applying Section 38

These case illustrations shed light on various scenarios where the principles outlined in Section 38 of the Specific Relief Act are applied:

1. Obligation: In the case of State of Orissa v Puri Municipality, the court ruled that no injunction could be granted against the State and Municipality to restrain them from constructing an inspection bungalow on land earmarked for Gandhi Memorial. This decision was based on the finding that the State Government was under no legal obligation to assign the land to the Municipality.

2. Breach of Contract: In Rizzoli Corriere Della Sera Produzioni T. v S. P A., the court granted interim relief to an Indian film producer who had rendered services to a foreign film producer but was not acknowledged. The court directed the foreign film producer not to exhibit the film in India unless it acknowledged the services rendered by the Indian producer. This decision highlighted the equitable nature of injunctions in cases where monetary compensation is inadequate.

3. Protection of Possession: In R. Pillai v R. Aiyar, it was held that an injunction is not appropriate where the plaintiff has been ousted from possession, and a suit for possession provides a more suitable remedy. Similarly, in Alamelu Achi v Ponniah, it was ruled that a person in wrongful possession is not entitled to an injunction against the rightful owner to protect their possession.

4. Defamation: In National Sugar Mills Ltd. v Ashutosh Mukherjee, the court granted an interim injunction to the plaintiffs, who were accused of overcharging, cheating, and forgery in a newspaper publication. The plaintiffs made out a prima facie case against the defendants, justifying the injunction pending the final determination of the case.

5. Co-sharers: In cases involving co-owners, injunctions are granted to prevent acts that amount to waste of joint property or illegitimate use thereof. For example, in Anant v Gopal, an injunction was granted to prevent the closing of doors providing access to the plaintiff's portion of the property.

Mandatory Injunction

Mandatory injunctions, as outlined in Section 39 of the Specific Relief Act, authorise the court to compel the performance of certain acts to prevent the breach of an obligation. These injunctions are granted at the discretion of the court and are aimed at rectifying a wrongful state of affairs created by the defendant or fulfilling their legal obligation.

For instance, if a person obstructs another's acquired right to light by constructing a building, the court may grant a mandatory injunction not only to stop the construction but also to compel the removal of the obstructing portion of the building. Similarly, if someone threatens to publish defamatory statements, the court may issue an injunction to prevent such publication, even if it may not directly harm the plaintiff's property.

A mandatory injunction orders the defendant to perform a positive act, such as undoing a wrongful action or fulfilling a legal duty. In contrast, a prohibitory injunction restrains the defendant from continuing or commencing a wrongful act.

For example, if a medical advisor threatens to disclose confidential patient information, the court may grant a mandatory injunction requiring the advisor to destroy all such communication, in addition to a prohibitory injunction preventing further disclosure.

It's important to note that when a party is eligible for relief through a mandatory injunction, the court will not grant a prohibitory injunction. Therefore, if a lessee complains about the lessor's intention to lease the property to someone else, they should seek a mandatory injunction rather than a mere prohibitory injunction.



Limitations on the Grant of Injunctions

Section 41 of the Specific Relief Act provides situations where the court cannot grant an injunction:

1. Restraining Judicial Proceedings: An injunction cannot be issued to stop someone from pursuing a judicial proceeding already underway unless it's necessary to prevent multiple proceedings on the same matter.

2. Restraining Proceedings in Non-Subordinate Courts: Similarly, the court cannot restrain someone from initiating or continuing legal proceedings in a court that is not subordinate to the court from which the injunction is sought.

3. Restraining Application to Legislative Bodies: An injunction cannot prevent someone from making applications to legislative bodies.

4. Restraining Criminal Proceedings: It's not permissible to restrain someone from initiating or continuing criminal proceedings.

5. Preventing Breach of Unenforceable Contracts: Injunctions cannot be used to prevent breaches of contracts that cannot be specifically enforced.

6. Preventing Acts of Nuisance: Injunctions cannot be issued on the grounds of nuisance if it's not reasonably clear that the act in question will indeed be a nuisance.

7. Preventing a Continuing Breach with Plaintiff's Acquiescence: If the plaintiff has consented to or accepted a continuing breach, the court will not grant an injunction to prevent it.

8. Alternative Remedies Available: If there are other effective remedies available through usual legal proceedings, injunctions may be refused, except in cases of breach of trust.

9. Plaintiff's Conduct Disentitling Assistance: If the plaintiff or their agents have conducted themselves in a manner that disentitles them to court assistance, injunctions may be refused.

10. Lack of Personal Interest: If the plaintiff does not have a personal interest in the matter, injunctions may be refused.

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