

BLOGS

Learn in a Minute: Interlocutory Order under the Civil Procedure Code

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An interlocutory order under the Civil Procedure Code is a temporary ruling that addresses a specific issue during a case before the final judgement.

Introduction

The Civil Procedure Code, 1908 (CPC), governs the procedural aspects of civil litigation in India. One of its essential features is the provision for interlocutory orders, which are temporary orders passed by a court during the pendency of a suit or proceeding. These orders are crucial for ensuring justice, protecting rights, and maintaining the status quo until the final resolution of the case.

This article provides an in-depth understanding of interlocutory orders, their types, objectives, and implications under the CPC.

What Are Interlocutory Orders?

An interlocutory order is a judicial order issued by a court that is not final but addresses a specific issue arising during the pendency of a case. These orders are ancillary to the main proceeding and aim to assist in the effective adjudication of the matter.

Unlike a final decree, an interlocutory order does not decide the rights and liabilities of parties conclusively but ensures that justice is not impeded during litigation.

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Objectives of Interlocutory Orders

1. Interlocutory orders help prevent irreparable harm to parties by maintaining the status quo or addressing urgent issues.
2. These orders ensure a fair trial by resolving procedural or evidentiary disputes during the course of litigation.
3. They protect the rights and interests of parties by providing temporary relief, such as injunctions or appointments of receivers.
4. Interlocutory orders can simplify and expedite the litigation process by resolving specific issues promptly.

Types of Interlocutory Orders under CPC

Temporary Injunctions

Under **Order XXXIX Rules 1 and 2**, the court may grant a temporary injunction to restrain a party from committing an act that would lead to injustice or alter the subject matter of the suit.

Conditions for Granting Temporary Injunction:

- Prima facie case exists.
- Irreparable injury would occur if the injunction is not granted.
- Balance of convenience favors the applicant.

Appointment of Receiver

Under **Order XL Rule 1**, the court may appoint a receiver to manage the property in dispute. This is done to preserve the property's value or income until the case is decided.

The court can appoint a receiver if it appears to be just and convenient. The court has the power to appoint a receiver even if there is no application from the party concerned

Purpose:

- To prevent misuse or destruction of the property.
- To ensure proper management of assets.

Attachment Before Judgment

Under **Order XXXVIII Rule 5**, a court may order attachment of a defendant's property to secure the plaintiff's claim. This ensures that the defendant does not fraudulently dispose of assets to evade liability.

Conditions:

- Defendant intends to delay or obstruct the decree's execution.
- There is a real risk of alienation of property

Arrest Before Judgment

Under **Order XXXVIII Rule 1**, the court may order the arrest of a defendant in specific cases to ensure their presence during the trial, particularly when there is a likelihood of absconding.

The court must have reason to believe that the defendant will remove themselves or their property from the court's jurisdiction.

When can this rule be applied?

1. If the defendant has left the court's jurisdiction to delay the plaintiff or avoid service of process
2. If the defendant is attempting to dispose of their property to avoid paying a future judgment
3. If the defendant is about to leave the court's jurisdiction with their property

Interim Maintenance and Custody Orders

In family disputes, such as matrimonial or child custody cases, the court may pass interlocutory orders regarding interim maintenance or custody of children under relevant laws, often read with provisions of the CPC.

Principles Governing Interlocutory Orders

- The court exercises its discretion judiciously, based on the facts and circumstances of each case.
- Both parties must be heard before passing an interlocutory order, except in cases requiring ex parte relief.
- The order should not prejudice the final outcome of the case.

- The relief granted should be proportionate to the harm sought to be prevented.

Conclusion

Interlocutory orders under the Civil Procedure Code play a pivotal role in safeguarding the interests of parties during litigation. They serve as tools for maintaining the status quo, preventing injustice, and ensuring the effective administration of justice.