



Temporary Injunctions And Interim Relief Under The Code Of Civil Procedure, 1908: Balancing Justice And Abuse Of Process

Shrushti Pinalkumar Desai

Student, Subhash Desai College of Law, Mumbai, India

I. ABSTRACT

The Code of Civil Procedure, 1908 (CPC) forms the procedural foundation of India's civil justice system. It provides the legal framework through which courts ensure fair adjudication in civil matters. Among its many provisions, interim relief is one of the most important tools available to courts for ensuring justice during the pendency of a case. Temporary injunctions, attachment before judgment, and appointment of receivers under Orders XXXVIII, XXXIX, and XL safeguard rights by preventing irreparable harm and preserving the subject matter of disputes.

However, these remedies have often been misused. Courts frequently encounter abuse of ex parte injunctions, forum shopping, and prolonged interim orders that undermine the objective of quick justice. Through this paper, I analyse how the CPC attempts to balance equity with procedure. I look at landmark judgments such as *Dalpat Kumar v Prahlad Singh* and *Wander Ltd v Antox India (P) Ltd*, and also reflect on how, in practice, interim relief sometimes becomes more critical than the final decree itself.

The paper argues that while interim relief is indispensable to civil justice, reforms are needed to prevent abuse. Suggestions include stricter timelines, deterrent costs for frivolous litigation, and clearer guidelines for judges. In absence of judicial caution, equitable reliefs may transform from the tools of protection into instruments of unfair advantage.

“Index Terms:” CPC, Interim Relief, Temporary Injunction, Equity, Civil Justice, Abuse of Process

II. INTRODUCTION :

The Code of Civil Procedure Code, 1908, extends far beyond procedural formality; it is the framework that sustains the delivery of justice in civil proceedings. Every law student quickly realises that while substantive law creates rights, procedure is what breathes life into them.

Civil litigation in India is often protracted. Even straightforward matters like property or contract disputes may take years to conclude, making interim remedies crucial to preserve subject matter. Without interim measures, by the time a judgment arrives, the subject matter may already be lost. A property may have been sold, a contract breached beyond repair, or assets transferred to evade execution. To prevent such injustice, the CPC provides for interim relief, particularly through temporary injunctions, attachment before judgment, and receivership.

However, the same provisions are often misused. Litigants sometimes seek injunctions not to protect their rights, but as a strategy to delay proceedings or pressure the other side. The dual character of interim relief as both a safeguard and a tool of abuse makes it a fascinating and highly relevant area of study.

This paper examines the balance between procedural fairness and equitable relief under the CPC, focusing on statutory provisions, judicial reasoning, and comparative insights.

III. STATUTORY FRAME WORK UNDER CPC :

The CPC provides three key mechanisms for interim relief:

1. Order XXXIX – Temporary Injunctions

These are the most common form of interim relief.

- a) Rule 1 empowers courts to grant injunctions when there is a real threat of property being wasted or alienated.
- b) Rule 2 pertains to preventing breaches of contract or injury, while
- c) Rule 3 and 3A regulate ex parte injunctions and mandate speedy disposal.

2. Order XXXVIII – Attachment before Judgment

This provision aims to prevent defendants from frustrating future decrees by disposing of property or transferring assets.

3. Order XL – Appointment of Receivers

Courts may appoint a receiver a neutral third party to manage property that is in dispute or at risk of waste. Together, these provisions reflect the balance between preventing injustice and avoiding premature judgments.

IV. JUDICIAL INTERPRITATION :

Courts have developed important principles around interim relief:

- **Dalpat Kumar v Prahlad Singh (1992) 1 SCC 719** – clarified the threefold test for granting injunctions.
- **Wander Ltd v Antox India (P) Ltd 1990 Supp SCC 727** – emphasized that appellate courts should not re-evaluate discretion.
- **Morgan Stanley Mutual Fund v Kartick Das (1994) 4 SCC 225** – limited interim orders in speculative commercial suits.
- **Seema Arshad Zaheer v MCGM (2006) 5 SCC 282** – held that monetary compensation may often suffice.
- **Gujarat Bottling Co Ltd v Coca Cola Co (1995) 5 SCC 545** – ruled that injunctions must not restrain fair trade.

Through these cases, courts have sought to balance urgency and fairness, while reminding litigants that interim relief is a discretionary, equitable remedy not a guaranteed right.

Case Law Table :

Case Name	Court	Principle Laid Down
Dalpat Kumar v. Prahlad Singh (1992)	SC	Reinforced that injunctions depends on three factors and are discretionary.
Gujarat Bottling Co. Ltd. V. Coca Cola Co. (1995)	SC	Injunctions must prevent injustice but not restrict lawful commercial freedom.
Seema Arshad Zaheer v. MCGM (2006)	SC	Court must be cautious to prevent interim relief from causing undue hardship.
American Cyanamid Co. v. Ethicon Ltd. (1975, UK)	HL	Established comparative guiding principles that influenced Indian courts.

V. ISSUES AND CHALLENGES :

The study indicates , several problems are evident:

1. **Delay in disposal** – Despite the statutory direction under Order XXXIX Rule 3A mandating disposal within 30 days, such applications frequently remain pending for months. Misuse of ex parte orders, inconsistent judicial approaches, and forum shopping continue to undermine procedural discipline.
2. **Misuse of ex parte injunctions** – Litigants obtain urgent injunctions and then delay the final hearing, using the order as leverage.
3. **Forum shopping** – Parties sometimes approach multiple courts in search of favourable orders.
4. **Inconsistent application** – Different judges apply different standards, creating unpredictability.
5. **Execution hurdles** – Even when injunctions are granted, enforcing compliance is difficult and often requires contempt proceedings.
6. **Economic impact** – In commercial cases, unjustified injunctions can stall entire projects, causing huge losses.

VI. COMPARATIVE PERSPECTIVE :

A comparative approach reveals valuable lessons from other jurisdictions regarding the balance between urgency and fairness in interim remedies :

- **England:** In *American Cyanamid v Ethicon Ltd*, the House of Lords simplified the standard by focusing on whether a “serious question to be tried” exists, rather than pre-judging the merits at the interim stage.
- **United States:** Under Rule 65 of the Federal Rules of Civil Procedure, a plaintiff must demonstrate potential irreparable harm, a reasonable likelihood of success, and that the injunction serves public interest ex parte orders are rarely granted.
- **India:** Indian courts tend to engage in lengthy analysis even at the interim stage, which ironically delays relief. Learning from the English and American systems, Indian practice could adopt stricter timelines and simplified tests.

VII. SUGGESTION :

1. **Time-bound disposal** – Strict enforcement of the 30-day requirement under Order XXXIX Rule 3A.
2. **Deterrent costs** – Heavy costs on frivolous or mala fide applications to discourage misuse.
3. **Uniform guidelines** – Supreme Court directions to standardise principles across courts.
4. **E-courts and case management** – Digital systems for faster notice, filing, and monitoring of interim applications.
5. **Quick appeals** – Fast-track mechanisms to challenge interim orders that are unfair or abused.
6. **Judicial training** – Special training on balancing equity with economic and social impact.

VIII. CONCLUSION :

The study reveals that interim relief provisions, though procedural in nature, significantly determine the actual outcome of litigation. A well-granted injunction can preserve justice, while a wrongly granted one can paralyse the other side.

What stands out most is the gap between law and reality. The CPC lays down safeguards, but in practice, delays and misuse are common. Courts have tried to maintain balance with principles like prima facie case and irreparable harm, but inconsistency weakens their impact.

Interim relief remains indispensable to civil litigation, but effective implementation demands strict adherence to timelines and accountability. Courts must ensure that equity operates as protection, not manipulation. If handled with vigilance, interim relief can truly serve as the shield of equity it was meant to be. If not, it risks becoming a sword of harassment.

IX. RESEARCH METHODOLOGY :

This research adopts a **doctrinal and analytical methodology**, focusing on the interpretation, scope, and application of provisions related to **temporary injunctions and interim relief** under the **Code of Civil Procedure, 1908**. It primarily involves the study of statutory provisions and judicial decisions without the use of field surveys or empirical data.

The **primary sources** for this research include statutory law specifically **Order XXXVIII, Order XXXIX, and Order XL** of the CPC and leading judicial pronouncements of the **Supreme Court of India**, such as *Dalpat Kumar v Prahlad Singh* [1], *Wander Ltd v Antox India (P) Ltd* [2], *Morgan Stanley Mutual Fund v Kartick Das* [3], *Seema Arshad Zaheer v MCGM* [4], and *Gujarat Bottling Co Ltd v Coca Cola Co* [5]. Comparative reference has also been drawn from the English precedent *American Cyanamid Co v Ethicon Ltd* [6] to understand the evolution of interim relief jurisprudence internationally.

The secondary sources consulted include standard legal textbooks such as *Mulla, The Code of Civil Procedure* [7] and *C.K. Takwani, Civil Procedure* [8], the **Law Commission of India's 240th Report (2012)** [9], and contemporary journal articles including *"Interim Relief in Commercial Disputes: Judicial Trends in India"* (Jus Corpus Law Journal, 2022) [10]. These materials were used to interpret judicial trends, highlight issues of misuse, and identify procedural reforms.

The method of analysis involved:

1. Collecting and reviewing primary legal texts and judgments.
2. Identifying key principles governing the grant of temporary injunctions.
3. Critically analyzing how courts balance *equity, justice, and abuse prevention* while exercising discretionary powers.
4. Comparing Indian judicial practice with the English and American approaches.
5. Synthesizing conclusions and proposing reforms for a more consistent and efficient approach to interim relief.

The scope of the research is limited to doctrinal analysis; it does not include empirical study, interviews, or statistical data. The research emphasizes legal reasoning, judicial trends, and doctrinal development rather than quantitative evaluation.

The objective of this study is to examine the statutory framework and judicial interpretation of temporary injunctions under the CPC, identify areas of procedural inefficiency or misuse, and suggest reforms that align equitable principles with timely justice.

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