

- (d) A mere allegation that the defendant is selling off his properties is not sufficient. *Particulars must be stated.*
- (e) An order of attachment before judgment is a drastic remedy and the power has to be exercised with utmost care and caution, as it may be likely to ruin the reputation of the party against whom the power is exercised. As the Court must act with the utmost circumspection before issuing an order of attachment, *the affidavit filed by the applicant should clearly establish that the defendant, with intent to obstruct or delay the execution of the decree that may be passed against him, is about to dispose of the whole or any part of his property.*
- (f) *A mere mechanical repetition of the provisions in the Code or the language therein without any basic strata of truth underlying the allegation or vague and general allegations that the defendant is about to dispose of the property or to remove it beyond the jurisdiction of the Court, totally unsupported by particulars, would not be sufficient compliance with Order XXXVIII, Rule 5 of CPC.*
- (g) An attachment before judgment is not a process to be adopted as a matter of course. The suit is yet to be tried and the defence of the defendant is yet to be tested. At the nebulous juncture, *the relief that is extraordinary could be granted only if the conditions for its grant, as per the provisions of the CPC, stand satisfied.* This process is never meant as a lever for the plaintiff to coerce the defendant to come to terms. Hence, utmost caution and circumspection should guide the Court.

### STATUS QUO ORDERS VIS-À-VIS CONTEMPT JURISDICTION — A CRITICAL STUDY

By

—P. SAMBASIVARAO,  
Advocate, Narsipatnam,  
Visakhapatnam District, A.P.

Very often, we come across “*Status Quo*” orders either of the Sub-ordinate Courts or of the High Courts too, mostly while granting *ex parte* orders in injunction suits. But, while passing *ex parte* “*Status Quo*” orders, generally subject to exception, if any, the nature of the order is only cryptic such as “*Status Quo*” orders or both parties are to maintain *status quo*, leading to several complications as to who among the two whether the plaintiff or defendant is in possession of the property. By and large the law on the subject appears to be a dead letter.

With due respect this vague, nebulous in character of the nature of these “*Status-Quo*”

orders without deciding as to who among the parties whether the Plaintiff-Petitioner is in possession or the defendant-respondent is in possession in suits for injunction leading to several complications of Criminal Cases and also resulting in some cases contempt proceedings or for action of disobedience as provided under 39-2A CPC. Hence, in order to avert such complications an honest endeavour is made in my characteristic, forth right, fearless strain, dedicated entirely to the service of law, and to the legal institutions even under the umbrella of Legal Services Authority to enlighten all concerned based on some authorities on this subject of day-to-day occurrence, in the judicial administration.

If the “*Status-Quo*” order of the Court is not clear enough or is amenable to manifold interpretations the Courts would be justified in holding that there is violation after placing its own interpretation on the order. There is considerable controversy in the event of disobedience of such vague ambiguous “*Status-Quo*” orders without specifying the precise contours of operation of such an order. Such “*Status-Quo*” orders are conspicuously silent with respect to respective possession of the parties. In order to set at rest this controversy, it is desirable and profitable to cite some of the authorities laying down the principles as to how a “*Status-Quo*” order is to be as laid down in 2000 (4) ALD 354 = 2000 (4) ALT 241 (DB) = 2000 (2) LS 382 in the recent decision, where in and whereby it is held.

“The Courts will be well advised in framing the “*Status-Quo*” orders in specific terms by mentioning “*Status-Quo*” as to possession, “*Status-Quo*” as to construction or “*Status-Quo*” with regard to enjoyment of the property and so on. It is also desirable to give brief description of the property.

*AIR 1989 Mad. Pg. 73*

While passing an order of “*Status-Quo*”, the Court should specify which party is in possession.

*2006 (1) CCC 211 Supreme Court*

Simply directing parties to maintain “*Status-Quo*”, without indicating what is the “*Status-Quo*” is not an order that it should be passed at the initial stage of a litigation.

*AIR 1988 (2) APLJ Pg.113*

An *ex parte* add interim injunction without assigning any reasons is illegal and void.

In a narrow campus of an article, it is enough if some suggestions are made instead

of elaborating and multiplying authorities on the subject.

In the back drop of the factual scenario, let us consider under the 2nd limb of controversy regarding the effect of violation of such vague, nebulous, ambiguous “*Status-Quo*” orders. The Division Bench 2000 (4) ALT 241 (DB), submitted supra has laid down in categorical terms “The Court should be satisfied that there was a clear and indefensible violation of the order. In our view is totally impermissible for a Court to clear an ambiguity in the order or interpret the order susceptible of two interpretations in its own way and then give directions to the respondent to obey the order, such direction will be clearly outside the contempt jurisdiction of the Court, when the “*Status-Quo*” order is capable of more than one interpretation.

It is therefore quite manifest from the aforesaid decisions that non-compliance of each and every order passed by the Court cannot be complained of seeking imposition of penalty on a person who is alleged to have been guilty of contempt.

Another infirmity, with due respect there are instances where we come across that the proceedings of violation of injunction orders under Order 39(2A) CPC initiated on the ground of disobedience or breach of injunction order which is in the nature of criminal proceedings as the person against whom such proceeding is initiated, where the principle of criminal law is applied and the principle on which a civil suit is decided are entirely different and as a concomitance thereof a common judgment deciding the main suit as well as the application under Order 39 Rule 2-A CPC will not be proper.

Any unsophisticated contra view is worth welcome.