

The Supreme Court in *All India Reporter Karmachari Sangh v. AIR Ltd.*, (AIR 1988 S.C. 1325 at 1331). held that the "Law Reports" are "News Paper" within the meaning of the Working Journalists and other Newspaper Employees (Conditions of Service) and Misc. Provisions Act, 1955 (Central Act 45 of 1955).

The Indian Law Reports Act (Supra) does not contain the definition of a law report.

Conclusion :

Sir *James Stephens*, the then Law Member of the British India expressed his great dissatisfaction with the system of Law reporting. He was particularly bitter towards private agencies which had no other interest than commercial one. Such agencies hardly cared to make distinction between a case worth reporting. (Dr. *S.K. Puri*, Indian Legal and Constitutional History, 190).

It is advocated for uniform law reporting, the Indian Law Reports Act (supra) is to be re-structured with necessary provisions in order to control the system of law reporting in India. Government shall exercise due control over the agencies, to achieve, uniform reporting, requisite information, regulate its price, and to benefit the common man.

The reports (law reports) are defined in *corpus juris secundum* as 'Collections of authoritative exposition or the law by the regularly constituted judicial tribunals supplemented and arranged by an officer called the Court Reporter (77 CJS. Reports-1) (AIR 1983 Bombay 101 at 206). English law, (1971(3) All E.R. 1029), says the publishing the law reports can be charitable institution, because the publication is for the benefit of the society as a whole (AIR 1983 Bombay 201 at 205).

Having regard to the land mark judgment of the Supreme Court in *All India Reporter Karmachari Sangh v. AIR Ltd.*, that the "Law Reports" are "News Paper", and having regard to Article 141 of the Constitution of India, it is submitted that all leading newspapers in this country should publish the precise text of important judgments which require for the benefit of the citizens of this vast country, a separate edition namely 'legal edition' may be inserted in all leading daily newspapers and systematic law reporting may be adopted.

The prime object of law reporting in India, is to propagate knowledge in an economical way. All Newspapers may come forward to introduce systematic law reporting which is useful to the public at large.

BREACH OF INJUNCTION ORDER

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Introduction of Injunction :

1. Injunctions are of two types - temporary or interlocutory and permanent. They are prohibitory or mandatory. Now they are granted in the writ jurisdiction of High Court and Supreme Court also.

2. The aim of the Courts is to protect the rights of the individuals in the subject matter of the dispute. An attempt is made to maintain

status quo emte of the property as on the date of approach to the Courts, so that further complications may be avoided. If a person is in possession of certain property then that possession should be protected and the opposite party should be prohibited from disturbing possession till the matter is finally heard and decided. If a person has a right of easement to flow water in a certain direction over the property of another who obstructs

to the flow by building a wall over the land, then the Courts will order demolition of as much portion of the wall as will enable the water to flow.

3. In India, Law of Injunctions covers all branches of litigation. Even rights of persons in religious institutions are covered by Law of Injunctions. Reference in this connection may be made to *Balbir Singh v. Sikh Gurdwara Judicial Commission*, AIR 1967 P & H 272.

In case of Breach of Injunction Order, Attachment of Property is not a must :

4. Learned Counsel for the applicant has contended that under Order XXXIX, Rule 2-A it was the duty of the Court to order attachment of the property for breach of an injunction order and the order of detention in civil prison without the substantive Rule 2(1) of the Civil Procedure Code empowers the Court to issue an injunction in certain cases. It is in these words: "In any suit for restraining the defendant from committing a breach of contract or other injury of any kind, whether compensation is claimed in the suit or not, the plaintiff may at any time after the commencement of the suit, and either before or after judgments, apply to the Court for a temporary injunction to restrain the defendant from breach of contract or injury of a like kind arising out of the same contract or relating to the same property or right".

Breach of Injunction Order issued against State-Officers responsible can be punished even though they are no Defendants :

5. In *Brijendra Prasad Narain Singh v. State of Bihar*, AIR 1963 Pat. 449 at 450. The Court said : This is a fit case for remand because the learned Additional District Judge, has not taken into consideration various matters which he should have taken into consideration. That the learned Additional District Judge, should have considered also the allegations relating to the incidents on the 13th June. It seems, that the learned Additional District Judge, has erred in not

taking into consideration the allegations made against same officers and men that they violated the order of injunction. It was not necessary for them to have been impleaded as defendants. They could still be proceeded against under Order XXXIX, Rule 2(3) (now Rule 2-A) of the Code of Civil Procedure if they were shown to have been agents and servants of the State and to have violated the order of injunction, inspite of knowledge that there was such an order.

In suitable cases, Orders can be passed under Section 151 C.P.C. :

6. The primary function of the Court is to do justice. There are cases which are not covered by Order XXXIX and as such no relief can be granted under its provisions - Yet it may be necessary to pass orders to protect the property and rights of the parties. Section 151 C.P.C. comes to aid in all such cases. In a case question arose whether police help could be given to remedy the breach of injunction order. The Court said that it had the jurisdiction to do so" - *Sri Rama Sarma*, contends that even assuming that the Court has inherent power under Section 151 C.P.C. So far as the orders of injunction passed under Order XXXIX, C.P.C. are concerned, Order XXXIX C.P.C. itself provides for remedies for breach of the injunction order and that consequently there is no scope for invoking the provisions of Section 151 C.P.C. for granting police aid for implementation of the order of injunction.

Remedy for Breach of Injunction Order lies in Order XXXIX, Rule 2-A and not in Contempt of Courts Act :

7. In cases of disobedience or breach of injunction order issued temporarily during the pendency of a suit, either under Rules 1 and 2 of Order XXXIX, C.P.C. action is contemplated by the very Court which issues the injunction order under Rule 2-A of Order XXXIX C.P.C. It contemplates the forfeiture of property as also putting of the person who commits breach into civil prison for a period not exceeding three months. The

provision there under is obviously based on the principle of contempt of Court. That being so, the general provisions made under the contempt of Courts Act cannot be invoked by the decree-holder, for forcing the party to obey the injunction order. It is a well-settled principles of Law that when there is special law and general law, the provisions of the Special Law prevail over the General Law and when Special Procedure and Special provisions are contained in the C.P.C. itself under Order XXXIX Rule 2-A for taking action for the disobedience of an order of injunction, the General Law of contempt of Court cannot be invoked. If such a course encouraged holding that it amounts to contempt of Court, when an order of Subordinate Court is not obeyed, it is sure to throw open a flood gate of litigation under contempt jurisdiction. Every decree-holder can rush to this Court stating that the decree passed by a Subordinate Court is not obeyed. That is not the purpose of Contempt of Courts Act.

When the question is whether there is Breach of Injunction Order, no room for interference in Revision :

8. The main concerns of the Court in proceedings under Order XXXIX, Rule 2(3) (now Rule 2-A) is to see how far the act done in disobedience of the Order is in disregard to its authority. The two Courts below found an evidence that the petitioner had acted in disobedience of the order of injunction and there is no room for interference by this Court in revision application. (*Bhonrilal v. Mst. Kaushalya*, AIR 1970 Raj. 83 at 86).

Whether Agent can be proceeded against for Breach of Injunction Order :

9. The judgment of the learned Civil Judge, shows that he mainly proceeded on placing reliance on *Rama Shankar v. Suraj Prasad*, 1962 ALJ 201, no longer good Law in view of amendment in 1976 and has not noticed the relevant amendments made in the Code otherwise he would have invoked the inherent jurisdiction under Order XXXIX, Rule 2-A.

10. Even an agent can be proceeded against for breach of injunction order. The question whether an agent of the defendant can be proceeded against in a proceeding under Order XXXIX Rule 2-A of the Code as amended by 1976 Act, the Patna High Court in *Ram Pd. Singh v. Subodh Pd. Singh*, AIR 1983 Pat. 278 has held that a person is liable to be proceeded against under Order XXXIX, Rule 2-A of the Code even if he was not presently party to the suit provided he is shown to be the agent or servant of the defendant and to have violated the orders of the Court in spite of knowledge that there was such an order. The Respondent No.3 is the husband of the owner of the premises. The architect stated on Affidavit that the appertures were closed at the instance of the Respondent No.3. It is wholly immaterial whether the respondent was personally present at the time of actual closing of the outlets or not and whether he was a party in the suit or not. (*K.L. Virmani v. III Additional District Judge*, AIR 1992 All 326 at 329).

Source:

Law of Injunctions by
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