

problem in depth an came up with the suggestions to propagate the law to the extent my ability in view of frequent occurrence in day-to-day judicial administration.

INJUNCTION SUITS – DETERMINATION OF TITLE IS MANDATORY

By

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The Age old concept of *sine quinine* for the issue of *ad interim* injunction, be it prohibitory or mandatory requires the existence of *prima facie* case, balance of convenience, irreparable loss is now extended to for determination of title also especially in respect of mandatory injunction.

In 2000 (Supreme Court Civil Reporter) 99. The Hon'ble Supreme Court held as follows :

“Court shall not exercise the power of granting a decree of permanent injunction in mandatory form without deciding the question of title and leaving the same open”.

To a similar effect the other decisions of the High Court of A.P., 1985 (1) APLJSN 30

Suit for injunction without a declaratory relief. Question of *prima facie* title of the plaintiff should be gone into. Failure of the plaintiff having *prima facie* title to prove effective physical possession, interim injunction cannot be granted.

2016 (1) ALD 461 at 473 Para 29

Though it is a suit for injunction title has to be gone into to decide *prima facie* case and balance of convenience.

2005 (1) ALD 268 at 274 para 14

Normally the Court while dealing with the suit for perpetual injunction on the question of possession of the plaintiff as on

date of filing of the suit will be taken as primary factor for consideration, it is also well settled preposition of Law, that in a suit for injunction the question of the title has to be gone into, what is the effect of consideration and decision regarding the finding relating to the title in a suit for injunction is a different subject. But the law established and remained unsettled is the question of title can be gone injunction suits.

AIR 2005 SC 1444

When the question of plaintiffs possession is to be decided in the sui, pending suit, it is not proper to grant any mandatory injunction.

This important aspect is ignorantly ignored at times by the Subordinate Judiciary leading to erroneous judgments and orders which exercise is palpably perverse and without jurisdiction. It is said perversity can pertain to the understanding of Law or the appreciation of pleadings or evidence.

Hence it may be reiterated with due respect the Subordinate Judiciary is to follow the mandate of the land mark verdict of the Supreme Court and also on the conspectus of several other authorities as suggested supra to avoid multiplicity of proceedings at several level and consider the question of title also for consideration of *prima facie* case particularly while issuing mandatory injunction in order to establish quality of Justice.