

A stitch in time saves nine

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Conservation, maintenance and management of one's individual proprietary rights, is well recognised by the Statutes. Whenever an invasion thereto is attempted, Civil Courts are up to defuse it, remedy the hostility and reinstate the subject to its earlier state of affairs. Though the Statutes are powerful in letters, how far the transgressors are effectively dealt with is always a moot question worthy of 'philosia'¹, the love of seeing from within. The on-seekers will repeatedly find the same answer. Statutes are potent, but the enforcement remains arduous.

When one's individual civil right, provided and protected by substantive law is at stake, its self working remedial mechanism stands to strike and protect the wounded through due process established by the procedural law. The classic example for this dovetailing is seen in the case of 'writs of injunctions' by Civil Courts.

Though not specifically defining what the word 'injunction' is, Sections 36 to 42 of Specific Relief Act and Sections 94, 95 read with Order 39 of the Code of Civil Procedure, 1908 prescribe, provide and regulate the granting of injunction relief in exigencies.

The term 'injunction' took its colour from Rome's 'interdict'. Three types of interdicts were provided there - *interdictum uti possideti*, to preserve existing juristic possession; *interdictum unde vi*, to recover a lost possession, and *interdictum de precario*, recover the possession lost for one's own fault. The British rule imbibed those *interditums* and introduced prohibitory and mandatory injunctions.

Order 39 Rule 1 CPC provides a detailed scheme wherein Court can pass an order of temporary injunction. Injunctions, especially temporary injunctions, as an extra ordinary remedy, are limited to those cases where it must be granted as a protection order with a view to prevent a legal injury causing irreparable injury². One who seeks this extra ordinary remedy must satisfy the Court that; (a). he has a *prima facie* case of legal injury, (b). the legal injury will cause

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1. The word 'philosia' is a replacement by Herman Hesse, a German writer, for the word introspection or 'inward search'.
2. *Ashok Kumar v. State of Uttarakhand* [(2013) 3 SCC 366 : 2012 KHC 4741].

irreparable injury and there is no other way out to prevent it, and (c). the balance of convenience rests in granting the same in his favour³.

Existence of a *prima facie* right and infraction of such right is a condition precedent for the grant of temporary injunction⁴. Mere pleading does not make a strong *prima facie* case. The case must be established with sufficient material or proved by affidavit. What is required is a finding that a *prima facie* case for temporary injunction is proved or made out⁵. A *prima facie* case alone is not sufficient to grant an injunction. The Court should further satisfy non-interference will result in irreparable injury to the party seeking relief and that there is no other remedy available to the party except one to grant an injunction⁶. If the injunction is granted it will cause irreparable loss and hardship to the defendant, than that will happen if not ordered in favour of the plaintiff, Court should decline to grant injunction⁷.

Grant of relief of injunction – Courts need be cautious

Under Order 39 CPC, jurisdiction of the Court to interfere with an order of interlocutory or temporary injunction is purely equitable. Therefore, the Court, on being approached, will, apart from other considerations, also look at the conduct of the party invoking the jurisdiction of the Court, and may refuse to interfere unless his conduct was free from blame. Since the relief is wholly equitable in nature, the party invoking the jurisdiction of the Court has to show that he himself was not at fault and that he himself was not responsible for bringing about the state of affairs complained of and that he was not unfair or inequitable in his dealings with the party against whom he was seeking the relief. His conduct need be fair and honest. These considerations will arise not only in respect of the party approaching the Court for vacating the ad interim or temporary injunction order already passed in the pending suit or proceedings.

The requirement for recording the reasons for grant of *ex-parte* injunction cannot be held to be a mere formality. This requirement is consistent with the principle, that a party to a suit, who is being restrained from exercising a right which such party claims to exercise either under a Statute or under the common law, must be informed why instead of following the requirement of Rule 3, the procedure prescribed under the proviso has been followed. The party, who invokes the jurisdiction of the Court for grant of an order of restraint against

3. *Makers Development Services Pvt. Ltd. v. M. V. Industrial Research* [(2012) 1 SCC 735 : 2011 KHC 5022]; *Narendra Kante v. Anuradha Kante* [(2010) 2 SCC 77 : 2010 KHC 6065]; *Automobile Products India Ltd. v. Das John Peter* [(2010) 12 SCC 593 : 2010 KHC 4475]; *Ramrameshwari Devi v. Nirmala Devi* [(2011) 8 SCC 249 : 2011 KHC 4540].
4. *V. S. Achuthanandan v. P. J. Francis* [AIR 1999 SC 2044 : 1999 KHC 462]; *Narendra Kante v. Anuradha Kante* [(2010) 2 SCC 77 : 2010 KHC 6065]; *S. K. Shukla v. State of U.P.* [(2006) 1 SCC 314 : 2006 KHC 31].
5. *Geo-Tech Constructions Co.Pvt. Ltd. v. Hindustan Steel Works Construction Ltd.* [AIR 1999 Ker. 72 : 1999 (1) KLT 536 : ILR 1999 (1) Ker. 26 : 1999 KHC 137].
6. *Balakrishnan v. Pradeep Kumar* [1996 (1) KLT 562 : 1996 KHC 120]; *Kalyan Singh Chouhan v. C. P. Joshi* [2011 (1) SCALE 718 : 2011 KHC 4068]; *Skyline Educational Institute (P) Ltd. v. S. L. Vaswani* [(2010) 2 SCC 142 : 2010 KHC 4009]; *Kashi Math Samsdhaan v. Srimad Sudheendra Thirtha Swamy* [(2010) 1 SCC 689 : 2010 KHC 6050].
7. *Civic Chandran v. Ammini Amma* [1996 (1) KLT 608 : 1996 KHC 91].

a a party, without affording an opportunity to him of being heard, must satisfy the Court about the gravity of the situation and the Court has to consider briefly these factors in the *ex-parte* order⁸. Due care, caution, diligence and attention must be bestowed by the judicial officers and Judges while granting or refusing injunctions. Safe and better course is to give a short notice on the injunction application and pass an appropriate order after hearing both sides⁹.

b *Ex-parte* injunction is ordered only in exceptional circumstances. Court has to see that (a) Whether irreparable or serious mischief will ensure to the plaintiff; (b) Whether the refusal of *ex-parte* would involve greater injustice than grant of it would involve; (c) The Court will also consider the time at which the plaintiff first had notice the act of complained so that the making of improper order against a party in his absence is prevented; (d) The Court will consider whether the plaintiff had acquired for some time and in such circumstances it will not grant *ex grate* injunction; (e) The Court would expect a party applying for *ex-parte* injunction to show utmost good faith in making the application; (f) General principle like *prima facie* case, balance of convenience and irreparable loss would also be considered by the Court¹⁰. Even where a *prima facie* case is made out in favour of the plaintiff, Court will refuse temporary injunction if the injury suffered by the plaintiff on account of refusal of temporary injunction is not irreparable¹¹. Grant of interim orders is governed by the principles *viz*; *prima facie* case, balance of convenience and irreparable injury.

e It is a temporary arrangement to preserve the *status quo* till the matter is finally decided and to ensure that the subject matter of the suit does not become either infructuous or a *fait accompli* before the final hearing. Court should also adopt procedure of calling upon the plaintiff to file a bond to the satisfaction of the Court that in the event of his failing in the suit, defendant could be adequately compensated for the loss¹².

While passing an order of injunction *ex-parte*, the Court has to consider:-

- f a. whether irreparable or serious mischief will ensue to the plaintiff
b. whether the refusal of *ex-parte* injunction would involve greater hardship than grant of it would involve
c. the Court will also consider the time at which the plaintiff first had notice of the act complained of so that the making of an improper order against party in his absence is prevented

- g 8. *Shiv Kumar v. Municipal Corpn. of Delhi* [(1993) 3 SCC 161 : 1993 KHC 1168].
9. *Thomas V. Y. @ Sajimon v. Joseph V. Y.* [2020 (4) KLT 640 : 2020 (3) KHC 613]; *Maria Margarida Sequeria Fernandez v. Erasmo Jack de Sequeria (dead) by LRs* [(2012) 5 SCC 370 : AIR 2012 SC 1727 : 2012 KHC 4181].
10. *Shib Kumar Mutual Fund v. Kartik Das* [1994 AIR SCW 2801: (1993) 4 SCC 225 (3 Judges)]; *Anilkumar and Others v. K. Rajendran* [2021(2) KLT 376 : 2021 (1) KHC 766]; *State of Mizoram and Others v. M/s. Pooja Fortune Pvt. Ltd.* [2020 (1) KLJ 238 : 2020 KHC 3060 (SC)].
h 11. *Best Sellers Retail (India) Pvt. Ltd. and Another v. M/s. Aditya Birla Nuvo Ltd. and Others* [(2012) 6 SCC 792 : AIR 2012 SC 2448 : 2012 KHC 4298].
12. *Beena Kannan v. K. J. Mathew.*, 2010 (2) KHC 265; *M. Gurudas v. Rasaranjan* [(2006) 8 SCC 367 : 2006 KHC 1409]; *Ramdev Food Products Pvt. Ltd. v. Arvindbhai Rambhai Patel* [(2006) 8 SCC 726 : 2006 KHC 1258]; *HPCL v. Sri Srیمان Narayan* [(2002) 5 SCC 760 : 2002 KHC 1288]; *M/s. Gujrat Bottling Co. Ltd. v. Coco Cola Company* [(1995) 5 SCC 545 : AIR 1995 SC 2372 : 1995 KHC 926].

d. the Court will consider whether the plaintiff had acquiesced for some time, and in such circumstances it will not grant *ex-parte* order of injunction

e. the Court would expect a party applying for *ex-parte* injunction to show utmost good faith in making the application; and

f. even if granted, the *ex-parte* injunction would be for a limited period of time.

General principles like *prima facie* case, balance of convenience and irreparable injury would also be considered by the Court¹³.

An interim relief can be granted only in aid and as ancillary to the main relief which may be available to the party on final determination of his rights in the suit¹⁴. A plaintiff in possession of the property, on the strength of his possession can resist interference of the defendant with no better title than the plaintiff can injunct the defendant from disturbing his possession¹⁵. When a co-sharer is in exclusive possession of the property, he is in possession thereof as a co-sharer and all other co-sharers continue to be in its constructive possession. He cannot be permitted to raise construction unless the property is partitioned by metes and bounds¹⁶. Court has to be extremely careful and cautious while granting *ex-parte* interim injunction orders. Extreme caution need be exercised and Court should bind the petitioner/plaintiff to pay full restitution/actual costs and mesne profits, if his suit is later dismissed¹⁷. The Court issuing *ex-parte* order has the duty to pass orders on the interlocutory application without delay and to comply with its obligation under Rule 3A¹⁸. In the guise of *ex-parte* interim injunction order, Court cannot in substance decree the suit itself¹⁹.

Ex-parte injunctions and public projects

Ex-parte relief of injunction or stay cannot be granted relating to public projects and schemes or economic policies. It is only when the Court is satisfied for good and valid reasons that there will be irreparable and irretrievable damages, injunctions can be granted *ex-parte*. In other cases, such orders can be passed only after hearing the parties²⁰.

13. *Morgan Stanley v. Kartick Das* [(1994) 4 SCC 225 : 1994 KHC 1183]; *Colgate Palmolive (India) Ltd. v. Hindustan Lever Ltd.* [AIR 1999 SC 3105 : 1999 KHC 1363]; *Dorab Cawasji v. Coomi Sorah* [AIR 1990 SC 867 : 1990 KHC 756]; *Kashi Math Samsthan v. Srimad Sudheendra Theertha Swamy* [(2010) 1 SCC 689 : 2010 KHC 6050]; *Prabhjot Singh Mand and Others v. Bhagawant Singh and Others* [(2009) 9 SCC 435 : 2009 KHC 5054].
14. *State of Orissa v. M. Gopal Rungta* [AIR 1952 SC 12 : 1952 KHC 289 (5 judges)].
15. *M. Kallappa Shetty v. M. V. Lakshmi Narayana Rao* [AIR 1972 SC 2299 : 1973 KHC 576]; *Somnath Berman v. Dr. S. P. Raju* [AIR 1970 SC 846 : 1969 KHC 599].
16. *Om Prakash v. Chhajju Ram* [AIR 1992 P&H 219 : 1992 KHC 2606].
17. *Rameshwari Devi v. Nirmala Devi* [2011 AIR SCW 4000 : 2011 KHC 4540].
18. *Black Marble Granites v. Biju* [1998 (2) KLT 635 : ILR 1999 (1) Ker. 217 : 1998 (2) KLJ 540 : 1998 KHC 427].
19. *Kesoram Rayon and Kesoram Industries Ltd. v. Pran Ballav Das* [(2008) 17 SCC 734 : 2008 KHC 7322]; *Vishnu Babu Tambe v. Apurva Vishnu Tambe* [(2017) 2 SCC 454 : 2017 (1) KHC 597]; *BSNL v. Prem Chand Premi* (2005) 13 SCC 505; *Union of India v. Modiluft Ltd.* [(2003) 6 SCC 65 : AIR 2003 SC 2218 : 2003 KHC 1463].
20. *BALCO Employees Union (Regd.) v. Union of India* [(2002) 2 SCC 333 : AIR 2002 SC 350 : 2002 KHC 238].

Inherent powers of the Civil Court and injunctions

a The source of power of the Court to grant interim relief is under Section 94 of the Code. An order of injunction can be passed only in terms of supplemental proceedings contained in Section 94 CPC²¹. Exercise of that power can only be done if the circumstances of the case fall under the rules. When a matter comes before the Court, the Court has to examine the facts of each case and ascertain whether the ingredients of Section 94 CPC read with the rules in an Order are satisfied and accordingly grant an appropriate relief. It is only in those cases, where the circumstances of the case do not fall under any of the rules prescribed, that the Court can invoke its inherent power under Section 151 of the Code²². But when an order of injunction is passed under Section 151 of the Code, by applying the principles laid down in Manohar Lal's case, it is not an appealable one in tune with Sections 104, 105 read with Order 43 Rule 1(s) of the Code²³. Where the parties violate the order of injunction or stay or act in total violation of those orders, the Court can, invoking powers under Section 151 CPC, can exercise inherent powers to set the parties back to the same state as they stood before the issuance of the Order²⁴.

In appropriate cases, a defendant can also seek for an injunction to restrain the plaintiff, if the case is covered by Order 39 Rule 1(a) CPC²⁵.

Interim mandatory injunctions under Order 39 CPC

d The situations for the grant of temporary injunction in a suit for prohibitory injunction and mandatory injunction as well as the rigour of test to be applied in both proceedings are different. *Prima facie* case made out in a suit for mandatory injunction proceedings must be so strong and usually clear that the suit has a high probability of success. Power of the Court to restore state of affairs to a position anterior to suit by issue of an interim mandatory injunction cannot be exercised in a suit for a decree of prohibitory injunction²⁶. Interim mandatory injunction can be granted only to restore the *status quo ante* as on the date of the suit²⁷.

f The guideline principles governing interim mandatory injunction would insist that; a. the plaintiff has a strong case for trial. That is, it shall be of a higher standard than a *prima facie* case that is normally required for the grant of a prohibitory injunction; b. it is necessary to prevent irreparable or serious injury which normally cannot be compensated in terms of money; and c. the balance of convenience is in favour of the one seeking the relief²⁸.

g 21. *Arjan Singh v. Punit Ahluwalia and Others* [(2008) 8 SCC 348 : AIR 2008 SC 2718 : 2008 KHC 4920].

22. *Vareed Jacob v. Sosamma Geevarghese* [AIR 2004 SC 3992 at 3936 : 2004 KHC 639]; *Manohar Lal v. Rai Bahadur Raja Seth Hiralal* [AIR 1962 SC 527 : 1962 KHC 489]; *Ezhuthachan National Academy and Others v. R. Gopinathan Nair and Others* [2019 (2) KLT 1073 : 2019 (1) KHC 798]; *Sudheerkumar v. Praveena* [2018 (4) KLT 241 : 2018 (4) KHC 460].

23. *Rathindra v. Jyothi*, AIR 1975 SC 377.

h 24. *Lakshmikutty Amma v. P. N. Krishna Pillai* [AIR 1992 Ker. 373 : 1992 KHC 340].

25. *Sathyabhama Amma v. Vijayamma* [1994 (2) KLT 764 : 1994 KHC 432]; *Shibu K. P. v. Rajammal and Others* [2017 (4) KLT 764 : 2017 (3) KHC 773].

26. *Anilkumar and Others v. K. Rajendran* [2021(2) KLT 376 : 2021 (1) KHC 766].

27. *Sadasiva Panikker and Others v. Suresh Kumar and Others* [2012 (3) KLT 679 : 2012 KHC 2777].

28. *Samir Narain Bhojwani v. Aurora Properties and Investments* [(2018) 17 SCC 203 : 2018 KHC 6615].

Life span of an interim order of injunction

An interim order passed in a suit, wherein the plaint was later returned due to lack of jurisdiction for filing before the proper Court having jurisdiction, has no legal validity or enforceability. Such an order passed without jurisdiction is liable to be recalled or vacated²⁹.

When the Court passes a final order, the interim order merges with the final order. If the Writ petition is dismissed, interim order will stand nullified automatically. An undeserved benefit taken by a party under an interim order is neutralized. Courts should pass express orders which are necessary to check the rising trend among the litigants to secure the relief as an interim measure and then avoid adjudication on merits³⁰.

Interim orders passed would automatically revived on restoration of a suit dismissed for default. But, where the defendants applied to the Court for communicating to the SRO about the order vacating injunction and consequential orders passed by the Court, it cannot be said that on restoration of suit, the order of injunction would automatically revive³¹.

Injunction on insufficient grounds

The remedy under the Code is optional and an injured can file a regular suit against the applicant for injunction for compensation if he has not already sought a relief under Section 95. The statutory provision is an alternative remedy in cases of wrongful obtainment of an injunction and it does not in any way interfere with the principles regulating suits for damages for tort of malicious legal process³². A writ petition under Article 227 challenging the orders passed by Civil Courts refusing to grant interim injunction under Order 39 Rule 1 and 2 CPC is maintainable³³.

Notice is as good as injunction

The ability to comprehend the principles of law is ofcourse a boon which varies from one to another. There are two Travancore-Cochin decisions which remain stray but monumental and costly on the point. The beauty of those age old decisions lies on the ultimate guiding principles that Courts are for doing justice to public.

When an application is made for a Writ or directions for prohibiting anything being done, and the Court admits the petition and issues notice, the respondent should not, after getting notice do the very same thing sought to be prevented.

29. *Holicross Hospital, Kollam v. E. T. Suresh* [2016 (4) KLT 635 : 2016 (5) KHC 543].

30. *Amarjeet Singh and Others v. Devi Ratan and Others* [(2010) 1 SCC 417 : 2010 KHC 6024]; *Kalabharati Advertising v. Hemant Vimalnath Narichania and Others* [AIR 2010 SC 3745 : 2010 KHC 4641]; *BCCI and Another v. Netaji Cricket Club and Others* [(2005) 4 SCC 741 : 2005 KHC 883]; *Jaipur Municipal Corpn. v. C. L. Mishra* [(2005) 8 SCC 423 : 2005 KHC 1898]; *Prem Chandra Agrawal v. UP Financial Corpn.* [(2009) 11 SCC 479 : 2009 KHC 533].

31. *Kunhimoideen @ Bava and Another v. Thalekara Sulaikha and Others* [2020 (2) KLT 248 : 2020 (2) KHC 177].

32. *Bank of India v. Lekhimoni Das* [(2000) 3 SCC 640 at 649, 650 : AIR 2000 SC 1172 : 2000 KHC 1083].

33. *State of Jharkhand v. Surendra Kumar Srivastava and Others* [(2019) 4 SCC 214 : AIR 2019 SC 231 : 2019 KHC 6004].

There need not be any separate order of injunction refraining the doing of it. In cases of urgency, the order of the Court should be taken for the duration of the proceedings or prayer made for expeditious disposal of the proceedings themselves. If a party, knowing that his opponent has either approached the Court or is taking steps to approach it for a certain specific relief, does anything to make the grant of the relief, by way of prevention, ineffective, the Court has always jurisdiction to pass orders, even in ordinary cases, in a mandatory form and to direct 'restoration of *'status quo ante'* in the manner and to the extent possible. It will be as 'a fortiori' case when the relief claimed is for grant of any of the Writs or directions contemplated by Article 226 of the Constitution³⁴. It is to be born in mind that, service of notice to pleader is service of notice to party³⁵. But a later view of Kerala High Court is that order of injunction takes effect only when the order is communicated to the party³⁶. Both these Travancore Cochin decisions use the word 'Writ' therein and many mistake it as applicable only to Constitutional Courts. The OED, makes it clear that the word "Writ" means a form of written command in the name of a Court or other legal authority to act, or abstain from acting, in a particular way.

Consequences for disobedience/breach of injunction

When an act is done in violation of an order of injunction, it is the duty of the Court, as a policy, to set the wrong right and to arrest the perpetuation of the wrongdoing³⁷. Any action by which the process of the Court is attempted to be thwarted has to be dealt with seriously. If an order of injunction is violated, that violation has to be dealt with sternly and seriously, for, otherwise it will undermine the very basis of the Rule of law. There is no difference whether the violation pertains to an order or to an undertaking made before a court of law, which too will have as much effect as an interim injunction in such circumstances³⁸. Court is competent and has sufficient powers to protect the might of law and in appropriate cases, even to restore the *'status quo ante'*³⁹. But, mere violation of an injunction order may not be sufficient to punish a person and it must be established that he knowingly and contumaciously violated the injunction order⁴⁰.

A petition under Order 39 Rule 2A cannot be filed in an executing Court. Its only the Court which passed the order can impose punishment for disobedience of its order⁴¹. Party must be allowed to put the property back in the same position, as on the date on which the order of injunction was passed⁴². An order of injunction, if violated, can be enforced by taking punitive action against contemnor under

- 34. *P. J. Joseph, Proprietor, Foreign Liquors, Ernakulam v. Asst. Excise Commissioner, Ernakulam* AIR 1953 TC 146 (DB); *Ouseph Ouseph v. Minister of Food, Travancore Cochin State and Another* [AIR 1951 SC 226 : 1951 KHC 245 (DB)].
- 35. *Nilkanta Sidramappa Ningashetty v. Kashinath Somanna Ningashetty and Others* [AIR 1962 SC 666 : 1962 KHC 507].
- 36. *Gasco Carriers (P) Ltd. v. Thomas* [1994 (2) KLT SN 25 : 1994 KHC 500].
- 37. *DDA v. Skipper Constructions Co.* [(1996) 4 SCC 622 : 1996 KHC 534].
- 38. *Krishnan v. Joseph D'souza* [1985 KLT 1010 : 1985 KHC 228].
- 39. *Paruthikkattuparambil Ayisha v. Perambra Abdul Nazar and Others* [ILR 2015 (3) Ker. 934 : 2015 (4) KHC 76].
- 40. *Johnson Kuriakose v. Fr. Thomas Paul Ramban and Others* [2019 (1) KLT 6 : 2019 (1) KHC 31].
- 41. *Kalyani Amma v. Krishna Kurup* [2006 (1) KLT 7 : 2006 KHC 305].
- 42. *Nanu Ramchandran v. Raman Uthaman* [1994 (2) KLT SN 44 : 19193 KHC 2586].

Order 39 Rule 2A as well as enforcement of the order with the aid of police by invoking Section 151 CPC⁴³. While dealing with an application under Rule 2A, the attachment of properties is not a condition precedent for detention of the party in prison⁴⁴.

Tail piece

The grant of interim injunction rests on equity principles. Though the Statute and precedents govern the field pretty well, actual practice in Courts and the practical approach to the case in hand yield and serve more. A stitch in time would ofcourse save nine. If the preventive injunction is refused or even delayed at the threshold, on technicalities or otherwise, the plaintiff may have to go for a mandatory prayer which is more rigorous and expensive. After all, law aims at imparting justice and the legal fraternity to act as healers of human conflicts.

Immediately after integration in the services, an officer from criminal side who sat on civil side for the first time, met a lawyer in Court who was moving an injunction application with a too innocent question. “will anyone be threatened or frightened on saying that the defendant is about to cut open a new pathway through his property.....your pleadings say so.....especially in the absence of ‘deadly fear’. As always, the lawyer was clever. He replied... “Your Honour..... defendant with his 10 to 15 henchmen, who are armed with pick axe, shovel and spade etc.”

“yes...yes...enough.....there you are....I was testing you....**injunction granted.....**”

THINKING **aloud**

(Notable selections from judgments)

The defamatory Facebook posts continue to do the rounds on Facebook and other Social Media platforms. There is no proper punishment for such defamatory statements and posters on Facebook. The Legislature must look into this aspect seriously, especially in the backdrop of this new era of technology and Social Media mania in existence in our society.— **P. V. Kunhikrishnan, J.** in *Fr. Geevargese John @ Subin John v. State of Kerala*, 2023 (6) KHC 154; (Para 13)

To paraphrase, even when it can be taken as medically accepted information, that “Hepatitis B” is a “communicable disease through blood and body fluids and is a progressive pathological condition” (*sic*), the acme question is, if a person can be denied opportunity solely on account of this; and the unmistakable answer of the civilised world to this is an affirmative “NO”.— **Devan Ramachandran, J.** in *Shaik Zakir Ahmed v. Fertilizers and Chemicals Travancore Limited*, 2023 (6) KHC 140; (Para 15)

43. *Johnson Kuriakose v. Fr. Thomas Paul Ramban and Others* [2019 (1) KLT 6 : 2019 (1) KHC 31].

44. *Sreedharan v. Varghese* [1991 (2) KLT 761 : 1991 KHC 500].