

10. When the plaintiff has no personal interest in the matter

Types of Injunction

- Perpetual Injunction [Section 38]
- Mandatory Injunction [Section 39]

Perpetual Injunction is an equitable relief and can be granted in appropriate cases. However, No injunction against the real owner.

Mandatory Injunction – Compel permanence of certain act.

Landmark Cases

1. *Ex-parte* mandatory injunction – *Assam State Electricity Board v. N.W. Cacher Tea Co. Ltd* – Mandatory Injunction can be granted even without notice to prevent grave injustice

2. No mandatory injunction for perpetuating wrongful state of things – *Assam State Electricity Board v. N.W. Cacher Tea Co. Ltd.*

Damages in lieu of or in addition to Injunction (Section 40)

- (i) May claim damages either in addition to or in substitution for such injunction
- (ii) No damages unless plaintiff claims such relief
- (iii) Amendment of plaint allowed
- (iv) Dismissal of suit under Section 38/39 will bar his right to sue

Stay of Proceeding in Criminal Matter

• *Beambar v. Natha* – The basic rule is that when the civil and criminal proceedings are based on one and the same document, let the civil case be decided first, criminal proceeding be stayed in the meanwhile

Section 42 of the Specific Relief Act provides for Injunction to perform negative agreement [Exception to Section 41(e)]

- Contract comprises an affirmative agreement to do a certain act
- Coupled with a negative agreement not to do a certain act
- Court can grant injunction to perform negative agreement
- Provided that the plaintiff has not failed to perform the contract so far as it is binding on him

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