



2026:AHC-LKO:61452

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

MATTERS UNDER ARTICLE 227 No. - 4093 of 2026

Dr. Amod Kumar SachanPetitioners(s)

Versus

Richa Mishra and 6 othersRespondents(s)

Counsel for Petitioners(s)	: Akshay Kumar Singh, Anupama Bhadauria, Apoorva Tewari
Counsel for Respondent(s)	: Amal Rastogi, Puneet Chandra, Radhika Varma, Sachin Tiwari, Shreshtha Srivastava

Along with

MATTERS UNDER ARTICLE 227 No. - 4313 of 2026

Dr. Amod Kumar SachanPetitioners(s)

Versus

Richa Mishra and 6 othersRespondents(s)

Counsel for Petitioners(s)	: Akshay Kumar Singh, Anupama Bhadauria, Apoorva Tewari
Counsel for Respondent(s)	: Amal Rastogi, Puneet Chandra, Radhika Varma, Sachin Tiwari, Shreshtha Srivastava

AFR

Reserved on:-12.08.2026

Delivered on:-01.09.2026

Court No. - 8

HON'BLE JASPREET SINGH, J.

1. The petitioner, who was the plaintiff of Regular Suit No. 455 of 2026, had filed a suit for declaration and injunction, wherein he had prayed for an interim injunction, which was granted by the trial court

vide order dated 02.04.2026, which was assailed in two appeals preferred under Order XLIII Rule 1(r) CPC, one by Smt. Sarojini Verma and the other by Shri Brij Kishore Singh and Hind Charitable Trust; and both the aforesaid appeals have been allowed by the Additional District Judge, Court No. 3 / Special Judge (NIA), Lucknow vide judgment and order dated 08.07.2026, which is under challenge in the aforesaid two petitions preferred by the plaintiff/petitioner under Article 227 of the Constitution of India.

FACTS IN BRIEF:

2. The petitioner filed a suit for declaration and injunction in the Court of Civil Judge (Senior Division), Lucknow, registered as R.S. No. 455 of 2026, wherein it was pleaded as under:-

(a) A public charitable trust under the name and style of Hind Charitable Trust was created vide a registered trust deed dated 09.12.2004, having seven founder trustees, namely: Dr. Amod Kumar Sachan (Plaintiff), Smt. Sushila Chaudhary (Defendant No. 4), Dr. Harish Chandra, Ms. Richa Mishra (Defendant No. 1), Shri Sunil Kumar Verma, Shri Brij Kishore Singh (Defendant No. 2), Smt. Madhu Chaudhary (Defendant No. 5).

(b) Later, vide supplementary trust deed dated 19.11.2008, Shri Vikram Singh (Defendant No. 3) and Shri Moti Lal Goyal were inducted as trustees of the trust, as Dr. Harish Chandra, Shri Sunil Kumar Verma, and Shri Moti Lal Goyal ceased to be members of the trust due to their demise.

(c) That Smt. Sushila Chaudhary and Smt. Madhu Chaudhary also ceased to be trustees as they had tendered their resignations vide their letter dated 01.03.2004, which was duly accepted by the Board of Trustees.

(d) The petitioner was always the Chairman of the Trust and he also administered the affairs of two institutes managed by

the Trust namely Hind Institute of Medical Sciences, Ataria in District Sitapur and Hind Institute of Medical Sciences, Safedabad in District Barabanki.

(e) The cause of action for filing of the suit precipitated on account of the fact that while the petitioner was in Delhi, taking advantage of his absence, it is alleged that defendant Nos. 1 and 2, along with his son, respondent No. 6 and others, entered in the administrative office of the hospitals managed by the Trust at Barabanki and District Sitapur, broke open the locks of the office, and removed important documents relating to the functioning of the Trust and the Hospitals. It was also alleged that the defendants took away the money kept in the locker in the petitioner's office, and this incident was informed by the Financial Officer of the Trust to the petitioner.

(f) The petitioner was also informed regarding some fabricated minutes of meeting dated 03.02.2026, wherein Shri Brij Kishore Singh who allegedly chaired a meeting and resolved to remove the petitioner from the post of Chairman of the Trust. In the same meeting, it was further resolved that all executive, administrative, and financial powers of the petitioner be seized, and he was barred from entering into the hospitals administered and managed by the Trust.

(g) In the same meeting, it was also resolved that the management of the hospitals at Barabanki and Sitapur would be managed by Ms. Richa Mishra. The said minutes of meeting dated 03.02.2026 were said to have been confirmed in an alleged meeting held on 07.02.2026.

(h) It was also pleaded that in order to give vent to the evil designs of taking over the Trust and ousting the petitioner therefrom, another fabricated minutes of meeting was prepared allegedly dated 16.01.2026, which allegedly

confirmed the minutes of meeting allegedly held on 20.12.2025 and in this fashion, the resignation of Smt. Sushila Chaudhary and Smt. Madhu Chaudhary was revoked, which had already been accepted by the Board on 01.03.2004. Significantly by the same minutes dated 16.01.2026, Smt. Sarojini Verma (wife of) Late Sunil Kumar Singh) was inducted as a founder trustee.

(i) The petitioner prayed that the minutes of meeting dated 16.01.2026 and 03.02.2026 be declared as fictitious, fabricated and void ab initio. The petitioner further prayed that a decree of perpetual injunction be granted in favor of the plaintiff restraining the defendants of the suit from interfering in the functioning of the petitioner as Chairman of the Trust.

(j) The plaintiff also filed an application under Order XXXIX Rules 1 and 2 C.P.C. seeking interim injunction against the defendants of the suit from interfering in the functioning of the petitioner as Chairman of the Trust and also from creating any interference in the functioning of the Trust by the petitioner, in furtherance of the alleged fabricated minutes of meeting dated 16.01.2026 and 03.02.2026, which be ignored.

(k) The trial court, after hearing the parties, vide its order dated 02.04.2026 allowed the application for interim injunction and restrained the defendant Nos. 1, 2, 4, 5, and 6 from interfering with the functioning of the petitioner as Chairman of Hind Charitable Trust during pendency of the suit or until a fresh election is conducted in accordance with the trust deed. It also directed that the operation of the bank accounts relating to the Trust would be operated strictly as per the trust deed. Both the parties were directed to cooperate in early disposal of the suit.

(l) The defendants of the suit, being aggrieved by the order dated 02.04.2026, preferred two separate appeals under Order

XLIII Rule 1(r) CPC i.e. one appeal Misc. Civil Appeal No. 79 of 2026 was filed by Smt. Sarojini Verma and the other appeal bearing Misc. Civil Appeal No. 80 of 2026 was filed by Shri Brij Kishore Singh and the Trust. Both the appeals were entertained by the District Judge, and vide interim order dated 10.04.2026 passed in Misc. Civil Appeal No. 80 of 2026, the operation of the order dated 02.04.2026 was stayed.

(m) This order dated 10.04.2026 was challenged by the petitioner herein in a petition bearing (A-227) No. 2030 of 2026. While no interim order was granted by the High Court, the petitioner later withdrew the aforesaid petition on 22.04.2026. In the meantime, the District Judge, Lucknow, before whom the appeals were pending, noticed that the steps had not been taken as directed by the court, hence, it refused to extend the interim order.

(n) Now it was the turn of Shri Brij Kishore Singh (the appellant of Misc. Civil Appeal No. 80 of 2026) to approach this Court by filing a petition bearing (A-227) No. 2410 of 2026, which, upon hearing, came to be disposed of by this Court vide order dated 30.04.2026 and the High Court directed that the interim order granted by the appellate court dated 10.04.2026 shall stand extended till 15.05.2026, and thereafter it will be subject to the orders to be passed by the appellate court. The Parties were directed to appear before the appellate court on the date fixed and advance their submissions, while the appellate court was directed to decide the appeals in accordance with law.

(o) In furtherance of the aforesaid directions, the appeals were finally heard by the Additional District Judge, Court No. 3, Special Judge (NIA), Lucknow, who, by means of judgment and order dated 08.07.2026, allowed both the appeals and set aside the temporary injunction order dated

02.04.2026 and rejected the application under Order XXXIX Rules 1 and 2 CPC.

(p) The plaintiff, being aggrieved, challenging the order dated 08.07.2026 passed in Misc. Civil Appeal No. 79 of 2026 and 80 of 2026, filed the instant two petitions. Since the order is common in both the appeals which have given rise to the instant two petitions, hence, with the consent of learned counsel for the respective parties, both the petitions were heard at length spread over several dates and are being decided by this common judgment.

SUBMISSIONS ON BEHALF OF THE PETITIONER:

3. Shri Jaideep Narain Mathur, learned Senior Counsel along with Shri Apoorva Tewari, Shri Akshay Kumar Singh, Ms. Anupama Bhadauria and Ms. Sangini Jha, vehemently urged that the Appellate Court was not justified in interfering with an order passed by the trial court granting an interim injunction in favor of the petitioner.

4. It was submitted that the trust deed contained certain stipulations, and *prima facie*, the material on record established that the alleged meetings said to have been held on 16.01.2026 and 03.02.2026 were against the recitals of the registered trust deed. The alleged minutes of meeting had glaring discrepancies which clearly established the fact that the minutes had been fabricated. The remaining trustees did not have the right to hold such a meeting violating the provisions of the trust deed only to achieve their evil design of removing the petitioner from the post of Chairman of the trust.

5. It was further submitted that where the trial court, after hearing the parties and from the record available before it, had meticulously found that there was a strong *prima facie* case in favor of the petitioner and that balance of convenience and irreparable injury was also in favor of the petitioner, in such circumstances, the grant of interim injunction by the trial court was in sound exercise of its jurisdiction. The Appellate Court was not justified in interfering with the aforesaid discretionary order,

especially when there was no reversal of the findings recorded by the trial court nor the Appellate Court could find that the basis on which the trial court formed its *prima facie* opinion, was not borne out from the record.

6. The learned Senior Counsel further submitted that the Appellate Court allowed the appeals and set aside the order passed by the trial court on bland propositions of law which did not apply to the facts of the instant case. It was also urged that being a first appellate court, it was the duty of the court in appeal against an order of injunction to have scrutinized the matter, exercising co-extensive powers as that of the trial court, and only if it found that the findings recorded *prima facie* by the trial court were unsustainable, could it interfere with an order of grant of injunction.

7. The submission was that even if another view was possible before the Appellate Court, it was only in sound exercise of jurisdiction that the Appellate Court should have followed the same, unless it could reverse the finding and hold that the *prima facie* case, balance of convenience, and irreparable injury were not in favor of the petitioner. Having failed to do so, the First Appellate Court committed an error of jurisdiction in interfering with the order passed by the trial court.

8. Shri Mathur, learned Senior Counsel further emphasized that the approach of the appellate court was patently illegal, inasmuch as it recorded a finding that any relief which is similar to the final relief cannot be granted at the interim stage, while failing to notice that this is not an absolute proposition of law; the difference being that in cases where interim injunction, if not granted, would result in frustration of the suit and subject to successfully making out a case for injunction, a court is entitled to protect the right of the parties, even if the interim injunction has some similarity with the final relief.

9. He further submitted that in such cases, the standard of *prima facie* case may be a little higher than in other usual cases, but it is not an absolute proposition that where the interim relief has similarity with the

final relief, then such a relief cannot be granted in all circumstances. The Appellate Court, without appreciating the distinction between the two, as a matter of bland proposition, applied the same to the facts of the case while allowing the appeals, which was a patent error of jurisdiction committed by the Appellate Court.

10. Shri Mathur further urged that the other grounds taken by the Appellate Court to allow the appeals are equally perverse, inasmuch as it referred to an interim order dated 10.04.2026 which was passed by the appellate court at the time of entertaining the appeals at the admission stage by which it had stayed the operation of the trial court dated 02.04.2026.

11. The submission was that any observation made by the Court at the time of entertaining the appeal or a petition is *prima facie* and tentative in nature. It is not as if the Court, while entertaining the petition/an appeal, gives its final verdict. Non-challenge to the said order does not operate as *res judicata*, as held by the Appellate Court; hence, the entire reasoning upon which the order impugned has been based suffers from patent illegality.

12. It was further submitted that the Appellate Court further erred in holding that the plaintiff/petitioner had not approached the court with clean hands. It was submitted that issues which were in the notice and knowledge of all the parties and were quite disjunct from the cause of action of the present suit were not facts which were germane for adjudication of the controversy involved, non-disclosure of such facts could not be taken against the appellant, nor could he be charged of suppression of material facts to be taken as a ground to discharge the injunction which was granted by the trial court.

13. It was also urged that the Appellate Court further erred in discharging the injunction on an additional ground that certain amendment which was to be done was not carried out by the plaintiff/petitioner. Non-compliance of an order to amend the plaint cannot be a ground to discharge the injunction *per se*. At best, the

Appellate Court could have put the plaintiff to notice, and in case if the petitioner still did not comply with the order, only then an appropriate orders could have been passed, but still it cannot be a ground to set aside an order of injunction and this reflects the manner in which the First Appellate Court exercised its jurisdiction, which is against the settled legal principles and it vitiates the order dated 08.07.2026.

14. It was urged by Shri Mathur that the Appellate Court, in order to justify the fabricated minutes of meeting dated 03.02.2026 and 16.01.2026, invoked a plea of 'accidental omission', which was neither the case of the defendants nor it was part of their pleadings, and thus, the Appellate Court carved out a new case for the defendants, which renders the order dated 08.07.2026 vulnerable to judicial scrutiny.

15. Lastly, it was submitted by the learned Senior Counsel that because of the order passed by the First Appellate Court, the entire functioning of the Trust and the Hospitals has been severely affected as the salaries of the Doctors, staff amongst others could not be paid and unless some protection is granted, the functioning of the Hospitals would be in jeopardy which would also be a loss for the students as well as the patients of the Hospital.

16. Thus, for all the aforesaid reasons, it was urged that the order impugned is bad and deserves to be set aside. In support of his submissions, he has relied upon the decisions of the Apex Court in: **Deoraj v. State of Maharashtra & Ors., (2004) 4 SCC 697; Shri Parmeshwari Prasad Gupta v. The Union of India, (1973) 2 SCC 543, Chelubhai Nanabhai Khachar & Ors. v. State of Gujarat & Ors., 1995 Supp (1) SCC 596, Ramakant Ambalal Choksi v. Harish Ambalal Choksi & Ors., (2024) 11 SCC 351.**

SUBMISSIONS ON BEHALF OF RESPONDENTS:

17. Shri Pritish Kumar, learned Senior Counsel along with Shri Amal Rastogi led the submissions on behalf of respondent Nos. 2 and 7 (who were the appellants of Misc. Civil Appeal No. 80 of 2026). It was

submitted by the learned Senior Counsel that a relief for injunction is a purely equitable and a discretionary relief. A person who approaches the court must come to court with clean hands, indicating complete facts. It was submitted that the petitioner did not disclose the true and correct facts and this itself was a ground for refusal of interim injunction. Even if at all there were certain discrepancies in the minutes of meeting, yet it did not absolve the petitioner of his obligation to disclose the true and correct facts, as the plaintiff has to support his case on its own strength and the plaintiff cannot claim any benefit from any weakness of the defendants. The mere fact that there were scathing observations made against the petitioner by a Division Bench of this Court in the order dated 06.02.2023 passed in W.P. No. 208 (MB) of 2017, and in furtherance thereof, the petitioner was dismissed from his service from the King George's Medical University, Lucknow, coupled with the fact that the petitioner had fraudulently opened accounts in name of the Trust on the basis of fabricated trust deed, were enough for the petitioner to be dis-entitled to claim any equitable remedy.

18. Learned Senior Counsel for respondent nos. 2 and 7 urged that this aspect of the matter was not considered by the trial court and it merely concentrated on the submissions advanced by the counsel for the plaintiff and did not take into consideration the submissions of the defendants. This led the trial court into committing an error in passing the order impugned dated 02.04.2026. It was also urged that the trial court merely considered the issue of *prima facie* case, but did not delve into the other two ingredients necessary for grant of temporary injunction, i.e. the balance of convenience and irreparable injury; and unless all the three ingredients co-existed in favor of the plaintiff, an order of injunction could not have been granted. In the given circumstances, the trial court had committed a grave error, which was rectified by the Appellate Court, hence it cannot be said that the First Appellate Court committed any error of jurisdiction and the Appellate Court rightly set aside the order passed by the trial court.

19. Shri Kumar further urged that it is now too well settled to be disputed that any relief which is in the nature of final relief cannot be granted at the interim stage. In the instant case, where the injunction granted by the trial court was identical to the final relief, such an order apparently falls foul of the settled legal principles and an interim injunction to the aforesaid extent could not be granted. The Appellate Court has rightly considered this aspect of the matter and found that the prayer made by the petitioner in his application under Order XXXIX Rule 1 and 2 C.P.C. was identical to the relief claimed in the suit; hence, such relief could not have been granted and the order passed by the Appellate Court cannot be said to be bad or violative of any principles of law.

20. The learned Senior Counsel for the respondent Nos. 2 and 7 further submitted that the petitioner, in connivance with the respondent No. 1, had created a fictitious trust deed. The original trust deed had seven founder trustees, whereas a fictitious parallel trust under the name and style of Hind Charitable Trust was created by the petitioner and the respondent No. 1, and on the strength of the aforesaid fraudulent trust deed, parallel accounts were opened in the name of the Trust, and all the money which was payable to the Trust was being siphoned through these illegal accounts to the detriment of the Trust and the other founder trustees.

21. It was also urged that the petitioner was not justified in his actions to work against the interest of the charitable trust. Once the aforesaid facts came to the notice of the other trustees, a meeting was called wherein the trustees present unanimously agreed to remove the petitioner from the post of Chairman of the Trust. It was submitted that removal from the post of the Chairman of the Trust does not mean that the petitioner has been removed from the Trust itself. As per the trust deed, it was open for the trustees to revisit the designations given to the founder trustees; and if it was decided that the plaintiff was to be removed from the post of Chairman of the Trust in light of the financial

misappropriation and fraudulent acts committed by the petitioner, then in such circumstances, he was not entitled to an interim injunction and in this view of the matter, the injunction granted by the trial court in favor of the petitioner was not justified. The First Appellate Court has rightly intervened, and the order impugned does not suffer from any error which may require this Court to interfere in exercise of its jurisdiction under Article 227 of the Constitution of India, thus the petitions deserve to be dismissed.

22. Shri Sudeep Kumar, learned Senior Counsel, along with Ms. Radhika Verma, for respondent Nos. 4 and 5, very fairly submitted that since respondent Nos. 4 and 5 had not filed their objections against the application under Order XXXIX Rule 1 and 2 C.P.C., hence, he would confine his submissions only on legal propositions. Shri Sudeep Kumar submitted that an injunction can only be granted in terms of the provisions contained under Order XXXIX Rule 1 and 2 C.P.C. It was urged that from the bare perusal of the aforesaid provision, it would indicate that the conditions envisaged in the said provisions are not attracted to the facts of the case, and in such circumstances, the injunction application was not maintainable and the trial court also did not have the jurisdiction to allow such an application.

23. The learned Senior Counsel further submitted that for the grant of injunction, three ingredients must co-exist, and in the instant case, the trial court has merely considered the issue of *prima facie* case, but has not considered the issue of balance of convenience and irreparable injury and for the said reason, the order passed by the trial court is patently erroneous.

24. It was further urged that the trial court, while granting the injunction, has practically held a mini-trial, which is legally not permissible at the interim stage. It was further urged that the First Appellate Court has taken a wholesome view of the matter and has rightly discharged the injunction granted by the trial court. In such circumstances, this Court may not interfere, and since the trial has

already been expedited, it would be appropriate for the parties to get the suit decided on merits.

25. Shri Puneet Chandra, learned counsel for respondent No. 6, has made submissions which are practically the same as advanced by the learned Senior Counsel for respondent nos. 2 and 7, hence the same are not being replicated here.

26. Significantly, the respondent no. 1 was represented by Sri H.G.S. Parihar, learned Senior Counsel along with Sri Sachin Tewari, learned counsel but no submissions were advanced on behalf of respondent no.1.

DISCUSSIONS AND ANALYSIS

27. The Court has heard the learned Senior Counsel for the respective parties and also perused the material on record.

28. Before proceeding to consider the rival submissions, it would be worthwhile to notice certain decisions of the Apex Court and the principles which are applicable for consideration of an application for injunction.

29. The law regarding grant of temporary injunction and interlocutory orders is covered by Section 94 and Order 39 of the CPC. Upon perusal of Rule 1 of Order 39 CPC, it would indicate that where in any suit, it is proved by affidavit or otherwise-(i) that any property in dispute in a suit is in danger of being wasted, damaged or alienated by any party to the suit, or wrongfully sold in execution of a decree, or (b) that the defendant threatens, or intends, to remove or dispose of the property with a view to defrauding the creditors, (c) that the defendant threatens to dispossess, the plaintiff or otherwise cause injury to the plaintiff in relation to any property in dispute in the suit; the Court may grant an order of temporary injunction to restrain such acts.

30. It is now well settled that before a Court grants a temporary injunction, it needs to be satisfied that a person seeking an injunction has a *prima facie* case in his favour and that the balance of convenience and irreparable injury also lies in his favour.

31. The word “prima facie case” apparently indicates something which at first impression makes out a triable case. The term “prima facie case” should not be confused with the term “prima facie title” which has to be established at the trial upon permitting the parties to lead evidence. Thus, it means a substantial question which has been raised and which upon first sight needs to be investigated and decided on merits.

32. The word “balance of convenience” denotes that the Court must be satisfied that the comparative mischief and hardship which is likely to be caused to the person seeking injunction is more than the inconvenience likely to be caused to the other party, by granting such injunction.

33. The word “irreparable injury” on the other hand guides the Court to be satisfied that the refusal to grant injunction would result in such injury which cannot be compensated in terms of costs or otherwise and the person seeking injunction needs to be protected from the consequences of apprehended injury.

34. The aforesaid three ingredients have been noticed by the House of Lords in the celebrated case of *American Cyanamid Co. v. Ethicon Ltd.*, reported in [1975] 1 All ER 504. The principles regarding grant of injunction as laid down by the Lord Diplock in Cyanamid case can be summarized as under:—

(1) The plaintiff must first satisfy the court that there is a serious issue to decide and that if the defendants were not restrained and the plaintiff won the action, damages at common law would be inadequate compensation for the plaintiff's loss.

(2) The court, once satisfied of these matters will then consider whether the balance of convenience lies in favour of granting injunction or not, that is, whether justice would be best served by an order of injunction.

(3) The court does not and cannot judge the merits of the parties' respective cases and that any decision of justice will be taken in a state of uncertainty about the parties' rights.

35. The Apex Court in **Wander Ltd. and another v. Antox India (P.) Ltd. 1990 Supp SCC 727** had the occasion to consider the principles regarding grant of injunction and in Paragraphs 9, 13 and 14 of the report it held as under:

“9. Usually, the prayer for grant of an interlocutory injunction is at a stage when the existence of the legal right asserted by the plaintiff and its alleged violation are both contested and uncertain and remain uncertain till they are established at the trial on evidence. The court, at this stage, acts on certain well settled principles of administration of this form of interlocutory remedy which is both temporary and discretionary. The object of the interlocutory injunction, it is stated

“...is to protect the plaintiff against injury by violation of his rights for which he could not adequately be compensated in damages recoverable in the action if the uncertainty were resolved in his favour at the trial. The need for such protection must be weighed against the corresponding need of the defendant to be protected against injury resulting from his having been prevented from exercising his own legal rights for which he could not be adequately compensated. The court must weigh one need against another and determine where the ‘balance of convenience’ lies.”

The interlocutory remedy is intended to preserve in status quo, the rights of parties which may appear on a prima facie case. The court also, in restraining a defendant from exercising what he considers his legal right but what the plaintiff would like to be prevented, puts into the scales, as a relevant consideration whether the defendant has yet to commence his enterprise or whether he has already been doing so in which latter case considerations somewhat different from those that apply to a case where the defendant is yet to commence his enterprise, are attracted.”

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“13. On a consideration of the matter, we are afraid, the appellate bench fell into error on two important propositions. The first is a misdirection in regard to the very scope and nature of the appeals before it and the limitations on the powers of the appellate court to substitute its own discretion in an appeal preferred against a discretionary order. The second pertains to the infirmities in the ratiocination as to the quality of Antox's alleged user of the trademark on which the passing-off action is founded. We shall deal with these two separately.

14. The appeals before the Division Bench were against the exercise of discretion by the Single Judge. In such appeals, the appellate court will not interfere with the exercise of discretion of the court of first instance and substitute its own discretion except where the discretion has been shown to have been exercised arbitrarily, or capriciously or perversely or where the court had ignored the settled principles of law regulating grant or refusal of interlocutory injunctions. An appeal against exercise of discretion is said to be an appeal on principle. Appellate court will not reassess the material and seek to reach a conclusion different from the one reached by the court below if the one reached by that court was reasonably possible on the

material. The appellate court would normally not be justified in interfering with the exercise of discretion under appeal solely on the ground that if it had considered the matter at the trial stage it would have come to a contrary conclusion. If the discretion has been exercised by the trial court reasonably and in a judicial manner the fact that the appellate court would have taken a different view may not justify interference with the trial court's exercise of discretion. After referring to these principles Gajendragadkar, J. in Printers (Mysore) Private Ltd. v. Pothan Joseph [(1960) 3 SCR 713 : AIR 1960 SC 1156] : (SCR 721)

“... These principles are well established, but as has been observed by Viscount Simon in Charles Oseinton & Co. v. Jhanaton [[1942] A.C. 130] “...the law as to the reversal by a court of appeal of an order made by a judge below in the exercise of his discretion is well established, and any difficulty that arises is due only to the application of well settled principles in an individual case’.”

The appellate judgment does not seem to defer to this principle.”

36. Once again, the Apex Court in ***Dalpat Kumar v. Prahlad Singh, (1992) 1 SCC 719***, considering the provisions of Order 39 Rule 1(c) CPC in Paragraphs 4 and 5 of the said report held as under:

“4. Order 39 Rule 1(c) provides that temporary injunction may be granted where, in any suit, it is proved by the affidavit or otherwise, that the defendant threatens to dispossess the plaintiff or otherwise cause injury to the plaintiff in relation to any property in dispute in the suit, the court may by order grant a temporary injunction to restrain such act or make such other order for the purpose of staying and preventing ... or dispossession of the plaintiff or otherwise causing injury to the plaintiff in relation to any property in dispute in the suit as the court thinks fit until the disposal of the suit or until further orders. Pursuant to the recommendation of the Law Commission clause (c) was brought on statute by Section 86(i) (b) of the Amending Act 104 of 1976 with effect from February 1, 1977. Earlier thereto there was no express power except the inherent power under Section 151 CPC to grant ad interim injunction against dispossession. Rule 1 primarily concerned with the preservation of the property in dispute till legal rights are adjudicated. Injunction is a judicial process by which a party is required to do or to refrain from doing any particular act. It is in the nature of preventive relief to a litigant to prevent future possible injury. In other words, the court, on exercise of the power of granting ad interim injunction, is to preserve the subject matter of the suit in the status quo for the time being. It is settled law that the grant of injunction is a discretionary relief. The exercise thereof is subject to the court satisfying that

(1) there is a serious disputed question to be tried in the suit and that an act, on the facts before the court, there is probability of his being entitled to the relief asked for by the plaintiff/defendant; (2) the court's interference is necessary to protect the party from the species of injury. In other words, irreparable injury or damage would ensue before the legal right would be established at trial; and (3) that the comparative hardship or mischief or inconvenience which is likely to occur from withholding the injunction will be greater than that would be likely to arise from granting it.

5. Therefore, the burden is on the plaintiff by evidence aliunde by affidavit or otherwise that there is "a prima facie case" in his favour which needs adjudication at the trial. The existence of the prima facie right and infraction of the enjoyment of his property or the right is a condition for the grant of temporary injunction. Prima facie case is not to be confused with prima facie title which has to be established, on evidence at the trial. Only prima facie case is a substantial question raised, bona fide, which needs investigation and a decision on merits. Satisfaction that there is a prima facie case by itself is not sufficient to grant injunction. The Court further has to satisfy that non-interference by the Court would result in "irreparable injury" to the party seeking relief and that there is no other remedy available to the party except one to grant injunction and he needs protection from the consequences of apprehended injury or dispossession. Irreparable injury, however, does not mean that there must be no physical possibility of repairing the injury, but means only that the injury must be a material one, namely one that cannot be adequately compensated by way of damages. The third condition also is that "the balance of convenience" must be in favour of granting injunction. The Court while granting or refusing to grant injunction should exercise sound judicial discretion to find the amount of substantial mischief or injury which is likely to be caused to the parties, if the injunction is refused and compare it with that which is likely to be caused to the other side if the injunction is granted. If on weighing competing possibilities or probabilities of likelihood of injury and if the Court considers that pending the suit, the subject matter should be maintained in status quo, an injunction would be issued. Thus the Court has to exercise its sound judicial discretion in granting or refusing the relief of ad interim injunction pending the suit."

37. Again, in the case of **Gujarat Bottling Co. Ltd. v. Coca Cola Co., (1995) 5 SCC 545** noticing the English decisions as well as earlier authorities of the Apex Court in Paragraphs 42, 43 and 47 has held as under:—

"42. In the matter of grant of injunction, the practice in England is that where a contract is negative in nature, or

contains an express negative stipulation, breach of it may be restrained by injunction and injunction is normally granted as a matter of course, even though the remedy is equitable and thus in principle a discretionary one and a defendant cannot resist an injunction simply on the ground that observance of the contract is burdensome to him and its breach would cause little or no prejudice to the plaintiff and that breach of an express negative stipulation can be restrained even though the plaintiff cannot show that the breach will cause him any loss. [See : Chitty on Contracts, 27th Edn., Vol. I, General Principles, paragraph 27-040 at p. 1310; Halsbury's Laws of England, 4th Edn., Vol. 24, paragraph 992.] In India Section 42 of the Specific Relief Act, 1963 prescribes that notwithstanding anything contained in clause (e) of Section 41, where a contract comprises an affirmative agreement to do a certain act, coupled with a negative agreement, express or implied, not to do a certain act, the circumstance that the court is unable to compel specific performance of the affirmative agreement shall not preclude it from granting an injunction to perform the negative agreement. This is subject to the proviso that the plaintiff has not failed to perform the contract so far as it is binding on him. The Court is, however, not bound to grant an injunction in every case and an injunction to enforce a negative covenant would be refused if it would indirectly compel the employee either to idleness or to serve the employer. [See : Ehrman v. Bartholomew [\[1898\] 1 Ch. 671](#) : [\[1895-99\] All ER 1680](#)]; N.S. Golikari [\[\(1967\) 2 SCR 378 : AIR 1967 SC 1098 : \(1967\) 1 LLJ 740\]](#) at p. 389.]

43. The grant of an interlocutory injunction during the pendency of legal proceedings is a matter requiring the exercise of discretion of the court. While exercising the discretion the court applies the following tests-- (i) whether the plaintiff has a prima facie case; (ii) whether the balance of convenience is in favour of the plaintiff; and (iii) whether the plaintiff would suffer an irreparable injury if his prayer for interlocutory injunction is disallowed. The decision whether or not to grant an interlocutory injunction has to be taken at a time when the existence of the legal right assailed by the plaintiff and its alleged violation are both contested and uncertain and remain uncertain till they are established at the trial on evidence. Relief by way of interlocutory injunction is granted to mitigate the risk of injustice to the plaintiff during the period before that uncertainty could be resolved. The object of the interlocutory injunction is to protect the plaintiff against injury by violation of his right for which he could not be adequately compensated in damages recoverable in the action if the uncertainty were resolved in his favour at the trial. The need for such protection has, however, to be weighed against the corresponding need of the defendant to be protected against injury resulting from his having been prevented from exercising his own legal rights for which he could not be adequately compensated. The court must weigh one need against another

and determine where the “balance of convenience” lies. [See : Wander Ltd. v. Antox India (P) Ltd. [1990 Supp SCC 727], (SCC at pp. 731-32.) In order to protect the defendant while granting an interlocutory injunction in his favour the court can require the plaintiff to furnish an undertaking so that the defendant can be adequately compensated if the uncertainty were resolved in his favour at the trial.”

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“47. In this context, it would be relevant to mention that in the instant case GBC had approached the High Court for the injunction order, granted earlier, to be vacated. Under Order 39 of the Code of Civil Procedure, jurisdiction of the Court to interfere with an order of interlocutory or temporary injunction is purely equitable and, therefore, the Court, on being approached, will, apart from other considerations, also look to 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 things complained of and that he was not unfair or inequitable in his dealings with the party against whom he was seeking relief. His conduct should be fair and honest. These considerations will arise not only in respect of the person who seeks an order of injunction under Order 39 Rule 1 or Rule 2 of the Code of Civil Procedure, but also in respect of the party approaching the Court for vacating the ad interim or temporary injunction order already granted in the pending suit or proceedings.”

38. In Colgate Palmolive (India) Ltd. v. Hindustan Lever Ltd., (1999) 7 SCC 1, the Apex Court while dealing with the issue of grant of temporary injunction relied upon the earlier decisions and quoted with approval the decision of House of Lords in the case of *American Cyanamid Co. v. Ethicon Ltd.*, and in Paragraph 24 held as under:—

“24. We, however, think it fit to note herein below certain specific considerations in the matter of grant of interlocutory injunction, the basic being non-expression of opinion as to the merits of the matter by the court, since the issue of grant of injunction, usually, is at the earliest possible stage so far as the time-frame is concerned. The other considerations which ought to weigh with the court hearing the application or petition for the grant of injunctions are as below:

(i) extent of damages being an adequate remedy;

(ii) protect the plaintiff's interest for violation of his rights though, however, having regard to the injury that may be suffered by the defendants by reason therefor;

(iii) the court while dealing with the matter ought not to ignore the factum of strength of one party's case being stronger than the other's;

(iv) no fixed rules or notions ought to be had in the matter of grant of injunction but on the facts and circumstances of each case -- the relief being kept flexible;

(v) the issue is to be looked at from the point of view as to whether on refusal of the injunction the plaintiff would suffer irreparable loss and injury keeping in view the strength of the parties' case;

(vi) balance of convenience or inconvenience ought to be considered as an important requirement even if there is a serious question or prima facie case in support of the grant;

(vii) whether the grant or refusal of injunction will adversely affect the interest of the general public which can or cannot be compensated otherwise."

39. The Apex Court in **Deoraj (supra)**, while considering the manner in which an application of injunction is to be considered, in paragraphs 11, 12, and 13 held as under:

"11. The courts and tribunals seized of the proceedings within their jurisdiction take a reasonable time in disposing of the same. This is on account of fair-procedure requirement which involves delay intervening between the previous and the next procedural steps leading towards preparation of case for hearing. Then, the courts are also overburdened and their hands are full. As the conclusion of hearing on merits is likely to take some time, the parties press for interim relief being granted in the interregnum. An order of interim relief may or may not be a reasoned one but the factors of prima facie case, irreparable injury and balance of convenience do work at the back of the mind of the one who passes an order of interim nature. Ordinarily, the court is inclined to maintain status quo as obtaining on the date of the commencement of the proceedings. However, there are a few cases which call for the court's leaning not in favour of maintaining the status quo and still lesser in percentage are the cases when an order tantamounting to a mandamus is required to be issued even at an interim stage. There are matters of significance and of moment posing themselves as moment of truth. Such cases do cause dilemma and put the wits of any judge to test.

12. Situations emerge where the granting of an interim relief would tantamount to granting the final relief itself. And then there may be converse cases where withholding of an interim relief would tantamount to dismissal of the main petition itself; for, by the time the main matter comes up for hearing there would be nothing left to be allowed as relief to the petitioner though all the findings may be in his favour. In such

cases the availability of a very strong prima facie case — of a standard much higher than just prima facie case, the considerations of balance of convenience and irreparable injury forcefully tilting the balance of the case totally in favour of the applicant may persuade the court to grant an interim relief though it amounts to granting the final relief itself. Of course, such would be rare and exceptional cases. The court would grant such an interim relief only if satisfied that withholding of it would prick the conscience of the court and do violence to the sense of justice, resulting in injustice being perpetuated throughout the hearing, and at the end the court would not be able to vindicate the cause of justice. Obviously such would be rare cases accompanied by compelling circumstances, where the injury complained of is immediate and pressing and would cause extreme hardship. The conduct of the parties shall also have to be seen and the court may put the parties on such terms as may be prudent.

13. The present one is a case where we are fully satisfied that a foolproof case for the grant of interim relief was made out in favour of the petitioner in the High Court on the basis of the material available before the Court. There was only one nomination filed which was found to be in order and was not withdrawn. The time appointed for filing nominations, scrutiny and withdrawal was over. There was no contest. Nothing had remained to be done at the meeting of the Committee which was to be convened only for the purpose of declaring the result. Nothing was to be put to vote. Holding of a meeting was only for the purpose of performing the formality of declaring the appellant as elected. In fact the election programme, as notified, itself contemplated the meeting at 1400 hours for voting and counting “if felt necessary”. The provision as to quorum lost all its significance. It did not make any difference whether there were eight Directors to hear the declaration of result or just four or even none. Maybe, the Directors having learnt of there being a single valid nomination and that too not withdrawn, and also knew that the result of the election was a fait accompli, and therefore, did not want to take the trouble of even coming to the venue of the meeting. Unless something was brought to the notice of the Court either by way of material in the shape of documents or affidavits or even by way of a plea raised before the Court which could come in the way of the relief being granted to the writ petitioner, in a case of such nature, the interim relief ought to have been granted. The writ petitioner appellant is right in submitting that the election was for a period of one year out of which a little less than half of the time has already elapsed and in the absence of interim relief being granted to him there is nothing which would survive for being given to him by way of relief at the end of the final hearing.”

40. Lately, the Apex Court in **Shruti Manav Sharma & Anr. v. Sunaina Singh & Ors: 2026 SCC OnLine SC 1549**, while dealing with the issue of injunction and the limits of appellate interference in such matters, held as under:

“17. The jurisdiction to grant a temporary injunction though statutory in form but equitable in substance. Section 36 of the [Specific Relief Act, 1963](#) declares that preventive relief is granted at the discretion of the court; Section 37(1) defines a temporary injunction and subjects it to the Code. Order XXXIX Rule 1(a) of the Code is directed, in terms, at property “in danger of being wasted, damaged or alienated”; Section 94(c) empowers the court to grant such an injunction “to prevent the ends of justice from being defeated.” Where a case falls outside the letter of Order XXXIX, the court's inherent power under Section 151 supplements, though it does not supplant, these express provisions.

18. The remedy is, in its origin, the characteristic remedy of the Court of Chancery, and its incidents, namely (i) it operates in personam, (ii) it is discretionary, and (iii) it is withheld where the common law remedy in damages is adequate, are traceable to that origin. The width of a discretion so conceived was addressed early. Sir George Jessel M.R. took the view that the court's power to grant an injunction was, in principle, unlimited wherever it would be right or just to do so; that width was promptly qualified by the Court of Appeal:

“I have no doubt that the words ‘just or convenient’ do not mean that the Court can grant an injunction because it thinks it convenient, but mean that the Court should grant an injunction for the protection of rights or the prevention of injury according to legal principles.”- North London Railway Co. v. Great Northern Railway Co., [\[L.R.\] 11 Q.B.D. 30](#), per Cotton L.J.

19. The discretion is therefore, a judicial one, exercised according to settled principles and not according to an individual sense of convenience. It presupposes a right in the applicant which the court is protecting. In the instant case, the original plaintiff claimed beneficial and testamentary interest in the family estate, now asserted on her behalf by her legal representatives. Indian law applies the equitable maxims to the same end. This Court held that the grant of an interlocutory injunction is a discretion to be exercised in a judicial manner and in accordance with the settled principles of equity, so that the conduct of the party invoking the jurisdiction is itself examined by the court. On the pleadings and the findings of the learned Single Judge, it is the conduct of defendant Nos. 4 and 9 in procuring the impugned transfers - by undue influence practiced upon an elderly

widow residing in their household - that is squarely in issue; that is a matter for trial, but at the interlocutory stage it weighs in favour of preserving, rather than permitting further dealing with, the properties and shareholding in question.

VII. THE OBJECT OF THE ORDER: PRESERVATION OF THE SUBJECT - MATTER FOR TRIAL

20. The single most important proposition governing these appeals is that an interlocutory injunction decides nothing; it is a holding operation, so that the trial, when it comes, is not a barren exercise. Lord Diplock's classical formulation, has been adopted verbatim in India:

“The object of the interlocutory injunction is to protect the plaintiff against injury by violation of his right for which he could not be adequately compensated in damages recoverable in the action if the uncertainty were resolved in his favour at the trial.”

22. The Indian formulation, adopting the American Cyanamid language, is found in Wander Ltd. (supra), where this Court held that the interlocutory remedy is intended “to preserve in status quo the rights of the parties which may appear on a prima facie case.” This preservative purpose is echoed in the structure of the statute itself: Order XXXIX Rule 1(a) speaks of property “in danger of being wasted, damaged or alienated,” and Section 94 of the Code speaks of preventing “the ends of justice from being defeated.” This Court explained that an interim order is intended to protect the subject-matter of the proceedings until disposal of the case, so that the ultimate relief, if the party succeeds, is not rendered meaningless.

VIII. PRIMA FACIE CASE: A SERIOUS QUESTION TO BE TRIED

24. The threshold for a prima facie case is a modest one. It does not require proof of title; it requires only that the claim not be frivolous or vexatious - a serious question to be tried. A prima facie case does not mean a case proved to the hilt but a case which can be said to be established if the evidence which is led in support of the same were believed. While determining whether a prima facie case had been made out, the relevant consideration is whether on the evidence led it was possible to arrive at the conclusion in question and as to whether that was the only conclusion which could be arrived at on that evidence.

IX. BALANCE OF CONVENIENCE

28. The Court, while dealing with the prayer for injunction has also to advert itself to the second essential ingredient for grant

of injunction viz. 'balance of convenience'. In order to determine whether the balance of convenience lies, the Court must weigh two matters. The first is to protect the plaintiff against injury by violation of his rights for which he could not be adequately compensated in damages recoverable in the action if the uncertainty were to be resolved in his favour. The second matter is that the defendant's need to be protected against injury resulting from his having been prevented from exercising his own legal rights for which he could not be adequately compensated by an undertaking if the uncertainty were to be resolved in defendant's favour at the trial.

X. IRREPARABLE INJURY

31. The Court, while dealing with the prayer for grant of injunction is required to consider the third essential ingredient viz. irreparable injury. This Court in Gujarat Bottling Co. Ltd.. (supra) has held that the Court is required to satisfy itself that the party seeking injunction needs protection from the consequences of apprehended injury and the injury is such which cannot be adequately compensated by way of damages. Thus, the Court is required to satisfy itself that in case an injunction as prayed for is not granted, the party seeking the same will suffer irreparable injury.

32. A party is not entitled to an order of injunction as a matter of right. The grant of interlocutory injunction is a remedy which is discretionary in nature. However, such a discretion has to be exercised on the touchstone of trinity test viz. prima facie case, balance of convenience and irreparable injury. It is equally well settled legal proposition that the temporary injunction being an equitable relief, the discretion to grant such relief will be exercised only when the plaintiffs conduct is free from blame and he approaches the Court with clean hands.

33. This is precisely the injury that is irreparable in the sense in which equity uses that word. Loss of controlling shareholding in family companies, or the creation of third-party rights in properties acquired with the proceeds of disputed transfers, that a subsequent decree cannot unwind, is the paradigm of such injury; it is not mere financial loss capable of computation and recovery from a solvent party, of the kind that courts, following Evans Marshall & Co. Ltd. v. Bertola SA, have held to be adequately met by an award of damages. No decree for money could restore to the appellants the specific shareholding and properties in question, once alienated to third parties during the pendency of the suit.

XI. THE STANDARD OF APPELLATE INTERFERENCE

36. An order on an application for temporary injunction is a discretionary one, and an appellate court does not ordinarily substitute its own discretion for that of the court of first instance, save where the discretion has been exercised arbitrarily, capriciously or perversely, or in ignorance of the settled principles governing the grant or refusal of such relief. The principle laid down in Wander Ltd. (supra) which has been approved by subsequent decisions of this Court, has been guiding the appellate courts in the country for decades while exercising the appellate jurisdiction considering the correctness of the discretion and jurisdiction for grant or refusal of interlocutory injunctions. The order of the learned Single Judge, resting as it does on seven specific findings addressing the nature of the original plaintiff's interest under the Will, the doubt surrounding its finality, the plea of undue influence, and the alter-ego character of the defendant entities, cannot be said to be arbitrary, capricious or perverse, nor to have been passed in ignorance of settled principle. It is, on the contrary, an order squarely anchored in the three conditions that govern the grant of interim injunction. The Division Bench's substitution of its own appreciation of the Will, of the parties' conduct, and of the applicability of statutory provisions bearing on the final merits, for the exercise of discretion by the learned Single Judge, was not warranted on the standard it had itself correctly recited, and constitutes precisely the kind of interference that Wander Ltd. (supra) forbids.

XII. THE VICE OF THE MINI-TRIAL

37. Before parting with these appeals, we consider it necessary to record our disquiet at a recurring feature of orders passed under Order XXXIX of the Code, and of appellate orders reviewing them, that reach this Court. Such orders are, with increasing frequency, running into pages of close analysis of the rival documents, weighing the probable outcome of issues of title, undue influence or fraud, and expressing views, in substance, on which party is likely to succeed at trial. Orders become lengthy for a single reason: the court passing them has, whether consciously or not, entered upon the final merits of the controversy and conducted what is, in substance, a mini-trial upon affidavits and documents that properly await the leading of evidence.

38. This is not what Order XXXIX requires, nor what the law permits - whether of the court of first instance or of an appellate court reviewing it. Lord Diplock's caution, that the interlocutory stage is not the occasion to resolve conflicts of evidence on affidavit or to decide difficult questions of law calling for mature consideration, has been consistently accepted in India. This Court, emphasised the court's reluctance to decide difficult questions of law or fact at the interlocutory stage. The scope of examination on an application under Order XXXIX - and, equally, of an appeal

against an order made on such an application - is confined to the limited and threshold question whether the plaintiff has shown a serious dispute meriting investigation at trial; it does not extend to an examination of the final effect, probative value or ultimate merits of the documents annexed to the pleadings, which is the trial court's task, to be undertaken after evidence and not before."

41. Keeping a track of the perimeter set by the Apex Court relating to consideration of applications for injunction in the aforesaid decisions and noticing the facts of the instant case, it would indicate that the basic grievance raised by the petitioner was in respect of his removal as Chairman of the Trust in question. From the perusal of the order passed by the trial court dated 02.04.2026, it would reveal that the trial court considered the contention of the respective parties, the documents filed by them in support of their case, and thereafter it found that there were glaring discrepancies relating to the minutes of meeting dated 03.02.2026 and it creates a doubt over the authenticity of holding of the meeting and the minutes so drawn and thus a *prima facie* case was made out by the petitioner. It also took note of the fact that the relief which was being granted was necessary to protect the rights of the parties during trial, failing which, if the ultimate decree comes to be passed in the suit it may not be render the relief as futile and in such circumstances it was required of the trial court to intervene.

42. The Trial Court also noticed that the removal of the plaintiff as Chairman of the Trust was on the basis of an FIR lodged by other trustees but no show-cause notice or an internal inquiry was done to give credence to the contents of the FIR. It also noticed that there was no agenda for the meeting allegedly held on 03.02.2026, and there was no such agenda even for the meeting dated 16.01.2026. The contents of the minutes of meeting indicated a different picture which raised doubts on its authenticity.

43. The learned Senior Counsel for the respondent nos. 2 and 7 suggested that the trial court delved into the issue of *prima facie* case,

but the issue of balance of convenience and irreparable injury was not considered in its correct perspective but what is important to note is that as far as the trial court is concerned, it considered the material on record and gave its findings on the three ingredients. It is to be equally appreciated that at the stage when the rights of the parties are in a fluid stage, which can only be crystallized after evidence is led during trial, hence, in such circumstances, the trial court went ahead in considering the matter and arrive at its own conclusion, which cannot be faulted per se, for want of proper adherence of consideration on the issue of prima facie case, balance of convenience and irreparable injury.

44. In case if the said conclusions were incorrect, it was open for the aggrieved party to escalate the matter before the Appellate Court and the Appellate Court exercising co-extensive powers as that of a trial court, could have re-examined the matter in light of the observations made by the Apex Court in **Sunaina Singh** (supra).

45. This Court finds that the issue whether the trial court had rightly or incorrectly granted the injunction could have been examined by the Appellate Court by appreciating the material on record and keeping in mind that a mini-trial is to be avoided.

46. It is in this context, this Court finds that the First Appellate Court fell short in exercising its jurisdiction while acting as an Appellate Court. The Appellate Court recorded four reasons for vacating the interim injunction and for dismissal of the application, namely:

- (i) That the trial court had granted final relief at the interim stage;
- (ii) That the Appellate Court, while entertaining the appeals, had passed an order on 10.04.2026 which was neither challenged by the parties, and certain observations made therein holding that the order dated

02.04.2026 was not valid and had been stayed, would operate as *res judicata* and binding on the Appellate Court while considering the appeal on its merit;

(iii) The Appellate Court also found that even if there were certain discrepancies regarding circulation of the agenda and holding of the meeting, then the same was an accidental omission, and such accidental omission was contemplated in the trust deed itself and that itself would not vitiate the meeting, hence, giving the benefit to the defendants, it held that the meeting dated 03.02.2026 and 16.01.2026 could not be faulted;

(iv) The Appellate Court further found that the plaintiff/petitioner had not approached the court with clean hands and had not disclosed the facts leading up to the suit, coupled with the fact that the conduct of the petitioner was such that the injunction should not have been granted; moreover, the trial court had passed an order while deciding applications under Order VII Rule 11 C.P.C. indicating the manner in which the Trust was to be impleaded through its representative, and since the said correction in the array of parties had not been carried out by the petitioner, hence on this ground also, the injunction was discharged.

47. If the aforesaid grounds are taken for consideration, it would reveal that the Appellate Court was obligated to test the order passed by the trial court on the three golden ingredients of *prima facie* case, balance of convenience, and irreparable injury. The Appellate Court could have introduced its own reasoning, but before that it should have discussed the findings of the trial court and met the reason to show how they were erroneous, and then the Appellate Court could record its own finding for coming to a different view.

48. As far as the first ground regarding grant of final relief at the interim stage is concerned, suffice to state that it is not an absolute proposition which creates a jurisdictional embargo for the Court not to grant an interim injunction. Actually, this has to be seen in context with the facts of each case. Illustratively, in a suit for permanent injunction where a plaintiff seeks a remedy against his unlawful dispossession, primarily his interim relief and final relief is practically the same, yet the court grant temporary injunctions protecting a person from his forcible dispossession, without due process of law. In such cases, the interim and the final relief is almost identical, yet in order to do complete justice, interim orders are granted. What is important to note is that in such cases, the consideration of *prima facie* case, is of a higher level, and needless to say, the issue of balance of convenience and irreparable injury also has to be seen as noticed by the Apex Court in **Deoraj** (supra).

49. In this context, the Apex Court in **Dorab Cawasji Warden v. Coomi Sorab Warden & Others, (1990) 2 SCC 117**, considered the power of the Trial Court to grant an interim mandatory injunction which otherwise is not usually granted. Thus, the propositions being that a Court cannot be left powerless nor can a litigant be left remediless. Thus, whenever compelling circumstances exist, the Courts are expected to rise to the occasion, as per law. The relevant portion of the aforesaid report reads as under:-

“10. The trial court gave an interim mandatory injunction directing respondent 4 not to continue in possession. There could be no doubt that the courts can grant such interlocutory mandatory injunction in certain special circumstances. It would be very useful to refer to some of the English cases which have given some guidelines in granting such injunctions.

11. In Shepherd Homes Ltd. v. Sandham [(1970) 3 All ER 402: (1970) 3 WLR 348] Megarry J. observed:

“(iii) On motion, as contrasted with the trial, the court was far more reluctant to grant a mandatory injunction; in a normal case the court must, inter alia, feel a high degree of assurance that at the trial it will appear that the injunction was rightly granted;

and this was a higher standard than was required for a prohibitory injunction.”

12. In Evans Marshall & Co. Ltd. v. Bertola SA [(1973) 1 All ER 992: (1973) 1 WLR 349] the Court of Appeal held that:

“Although the failure of a plaintiff to show that he had a reasonable prospect of obtaining a permanent injunction at the trial was a factor which would normally weigh heavily against the grant of an interlocutory injunction, it was not a factor which, as a matter of law, precluded its grant;”

The case law on the subject was fully considered in the latest judgment in Films Rover International Ltd. v. Cannon Film Sales Ltd. [(1986) 3 All ER 772] , Hoffmann, J. observed in that case: (All ER pp. 780-81)

“But I think it is important in this area to distinguish between fundamental principles and what are sometimes described as ‘guidelines’, i.e. useful generalisations about the way to deal with the normal run of cases falling within a particular category. The principal dilemma about the grant of interlocutory injunctions, whether prohibitory or mandatory, is that there is by definition a risk that the court may make the ‘wrong’ decision, in the sense of granting an injunction to a party who fails to establish his right at the trial (or would fail if there was a trial) or alternatively, in failing to grant an injunction to a party who succeeds (or would succeed) at trial. A fundamental principle is therefore that the court should take whichever course appears to carry the lower risk of injustice if it should turn out to have been ‘wrong’ in the sense I have described. The guidelines for the grant of both kinds of interlocutory injunctions are derived from this principle.”

Again at page 781 the learned Judge observed:

“The question of substance is whether the granting of the injunction would carry that higher risk of injustice which is normally associated with the grant of a mandatory injunction. The second point is that in cases in which there can be no dispute about the use of the term ‘mandatory’ to describe the injunction, the same question of substance will determine whether the case is ‘normal’ and therefore within the guideline or ‘exceptional’ and therefore requiring special treatment. If it appears to the court that, exceptionally, the case is one in which withholding a mandatory interlocutory injunction would in fact carry a greater risk of injustice than granting it even though the court does not feel a ‘high degree of assurance’ about the plaintiff’s chances of establishing his right, there cannot be any rational basis for withholding the injunction.”

and concluded that: (All ER p.782)

“These considerations lead me to conclude that the Court of Appeal in Locabail International Finance Ltd. v. Agroexport [(1986) 1 All ER 901, 906: (1986) 1 WLR 657, 664] was not

intending to 'fetter the court's discretion by laying down any rules which would have the effect of limiting the flexibility of the remedy', to quote Lord Diplock in the Cyanamid case [American Cyanamid Co. v. Ethicon Ltd., (1975) 1 All ER 504, 510: 1975 AC 396, 407] . Just as the Cyanamid [American Cyanamid Co. v. Ethicon Ltd., (1975) 1 All ER 504, 510: 1975 AC 396, 407] guidelines for prohibitory injunctions which require a plaintiff to show no more than an arguable case recognise the existence of exceptions in which more is required (compare Cayne v. Global Natural Resources plc [(1984) 1 All ER 225]), so the guideline approved for mandatory injunctions in Locabail [(1986) 1 All ER 901, 906: (1986) 1 WLR 657, 664] recognises that there may be cases in which less is sufficient."

On the test to be applied in granting mandatory injunctions on interlocutory applications in Halsbury's Laws of England, 4th edn., Vol. 24, para 948 it is stated:

"A mandatory injunction can be granted on an interlocutory application as well as at the hearing, but, in the absence of special circumstances, it will not normally be granted. However, if the case is clear and one which the court thinks ought to be decided at once, or if the act done is a simple and summary one which can be easily remedied, or if the defendant attempts to steal a march on the plaintiff, such as where, on receipt of notice that an injunction is about to be applied for, the defendant hurries on the work in respect of which complaint is made so that when he receives notice of an interim injunction it is completed, a mandatory injunction will be granted on an interlocutory application."

13. The law in United States is the same and it may be found in 42 American Jurisprudence 2d page 745 et seq.

14. As far the cases decided in India we may note the following cases.

15. In one of the earliest cases in Rasul Karim v. Pirubhai Amirbhai [ILR (1914) 38 Bom 381: 16 Bom LR 288: 24 IC 625] , Beaman, J. was of the view that the courts in India have no power to issue a temporary injunction in a mandatory form but Shah, J. who constituted a bench in that case did not agree with Beaman, J. in this view. However, in a later Division Bench judgment in Champsey Bhimji & Co. v. Jamna Flour Mills Co. Ltd. [(1914) 16 Bom LR 566: 28 IC 121] two learned Judges of the Bombay High Court took a different view from Beaman, J. and this view is now the prevailing view in the Bombay High Court. In M. Kandaswami Chetty v. P. Subramania Chetty [ILR (1918) 41 Mad 208: 1917 MWN 501: 41 IC 384] , a Division Bench of Madras High Court held that courts in India have the power by virtue of Order XXXIX Rule 2 of the Code of Civil Procedure to issue temporary injunctions in a mandatory form and differed from Beaman J.'s view accepting the view in Champsey Bhimji & Co. v. Jamna Flour Mills Co. [(1914) 16 Bom LR 566: 28 IC 121] In Israil v. Shamser Rahman [ILR

(1914) 41 Cal 436: 18 CWN 176] , it was held that the High Court was competent to issue an interim injunction in a mandatory form. It was further held in this case that in granting an interim injunction what the court had to determine was whether there was a fair and substantial question to be decided as to what the rights of the parties were and whether the nature and difficulty of the questions was such that it was proper that the injunction should be granted until the time for deciding them should arrive. It was further held that the court should consider as to where the balance of convenience lies and whether it is desirable that the status quo should be maintained. While accepting that it is not possible to say that in no circumstances will the courts in India have any jurisdiction to issue an ad interim injunction of a mandatory character, in Nandan Pictures Ltd. v. Art Pictures Ltd. [AIR 1956 Cal 428] , a Division Bench was of the view that if the mandatory injunction is granted at all on an interlocutory application it is granted only to restore the status quo and not granted to establish a new state of things differing from the state which existed at the date when the suit was instituted.

16. The relief of interlocutory mandatory injunctions are thus granted generally to preserve or restore the status quo of the last non-contested status which preceded the pending controversy until the final hearing when full relief may be granted or to compel the undoing of those acts that have been illegally done or the restoration of that which was wrongfully taken from the party complaining. But since the granting of such an injunction to a party who fails or would fail to establish his right at the trial may cause great injustice or irreparable harm to the party against whom it was granted or alternatively not granting of it to a party who succeeds or would succeed may equally cause great injustice or irreparable harm, courts have evolved certain guidelines. Generally stated these guidelines are:

- (1) 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 a prohibitory injunction.*
- (2) It is necessary to prevent irreparable or serious injury which normally cannot be compensated in terms of money.*
- (3) The balance of convenience is in favour of the one seeking such relief.*

17. Being essentially an equitable relief the grant or refusal of an interlocutory mandatory injunction shall ultimately rest in the sound judicial discretion of the court to be exercised in the light of the facts and circumstances in each case. Though the above guidelines are neither exhaustive nor complete or absolute rules, and there may be exceptional circumstances needing action, applying them as prerequisite for the grant or refusal of such injunctions would be a sound exercise of a judicial discretion.”

50. Thus, to state as a matter of bland proposition that an interim relief which is somewhat similar to the final relief cannot be granted at all would be an incorrect enunciation of law. It was open for the Appellate Court to have discharged the injunction provided it would have considered the facts as well as the material on record and dealt with the findings recorded by the trial court. Not having done so, merely applying a proposition without even noticing whether it applied to the present facts and circumstances or not. Thus, the Appellate Court failed to exercise its jurisdiction, in accordance with law.

51. From the perusal of the order impugned passed by the appellate court, it would indicate that the First Appellate Court reproduced the order passed by the trial court *in extenso*. It thereafter reproduced the interim order passed by the Appellate Court dated 10.04.2026 at the time of admission of the appeals. The Appellate Court recorded a finding that since the order dated 10.04.2026 indicated that the order passed by the trial court could not sustain, and as an interim measure the operation of the order dated 02.04.2026 was stayed, and the said interim order had not been challenged or set aside by a higher Court, hence the said order would have a binding impact on the Appellate Court while deciding the appeal on merits, is *per se* erroneous.

52. It is too well settled that any observations made by the court at the time of entertaining a petition/an appeal is purely tentative in nature and does not impact the merits, nor binds the court at the time of final hearing. This approach of the First Appellate Court reflects poorly on the understanding of legal propositions and its applicability.

53. Another fallacy in the reasoning of the Appellate Court is that the very ground upon which the Appellate Court was convinced to discharge the injunction order granted by the trial court i.e. to say, that a final order could not have been granted at the interim stage then

on the same analogy the First Appellate Court while passing the interim order dated 10.04.2026 could not have stayed the operation of the order dated 02.04.2026, thereby granting final relief at the interim stage. This has been expressed only to illustrate the danger faced by the Court when it applies legal propositions in abstract and divorced from the factual matrix of a case as this has a propensity to lead to traversity of justice in the name of upholding the law.

54. This Court also finds that the First Appellate Court considered the controversial minutes of meeting and found the same to be protected on account of 'accidental omission'. This plea of 'accidental omission' has been lifted from the text of the trust deed; however, there were no pleadings of any of the defendants invoking the said clause in their defence. Even otherwise, the issue as to whether there was any accidental omission or not was for a party to plead and establish during trial, and this itself could not have been taken as a ground for pre-judging the issue at the interim stage and that too by the Appellate Court considering the validity of an order passed by the trial court granting interim injunction especially when this was not a plea taken before the Trial Court.

55. The other reason adopted by the Appellate Court regarding the plaintiff not coming to court with clean hands is also an issue which should have been considered appropriately in the given facts and circumstances, and the Appellate Court ought to have recorded a finding as to the nexus of the facts allegedly not disclosed *vis-à-vis* the right of the party to seek injunction. In case if the nexus was rooted to an extent which dis-entitled a party to seek injunction, then it could have been a valid consideration for the court to consider whether an injunction ought or not to have been granted. However, the Appellate Court has failed in its obligation to consider this aspect of the matter while passing the impugned order, but has taken it as a ground upon which it discharged the injunction granted by Trial Court.

56. In this background, an important aspect arises and which should have been considered by the Appellate Court, and that is whether a Court would be justified in refusing to grant interim relief, ignoring the pleadings and its supporting material, as in this case relating to the removal of the plaintiff from the office of Chairman of the Trust, on the plea of misconduct of the plaintiff raised by the defendants thereby converting the proceedings into a trial in disguise of the alleged misconduct of the plaintiff, even without a counter claim or a prayer of counter injunction.

57. Much emphasis was laid by the learned senior counsel for the respondent that the conduct of the petitioner was not conducive for him to hold the position of the Chairman of the Trust and the fraudulent acts of the petitioner as pointed out before the trial court, were not noticed nor its impact on the right of the petitioner to seek an injunction, was considered.

58. In response, the learned senior counsel for the petitioner also pointed out that even the conduct of the respondents was not above board, inasmuch as allegations were leveled both against the petitioner and the respondent No. 1, but the respondents are pressing the allegations only against the petitioner, and the same conduct of the respondent No. 1 appears to have been condoned and this in itself indicates the *mala fides* of the respondents, who too have not approached the Court with clean hands. In case if the respondents were seeking vacation of the interim order, then it was the duty of the court to have considered the conduct of the respondent as well.

59. Be that as it may, the Appellate Court should have probed whether the status of the plaintiff as the Chairman of the Trust was an established fact and if so then whether the defendants had the legal authority to remove him and as to whether the defendants had adopted the agreed procedure as provided in the Trust deed or law, to remove the plaintiff from his office of Chairman of the Trust.

60. It was also important for the Appellate Court to determine whether an allegation of misconduct against a trustee by itself amounted to legal removal and the defendants could convert the allegations of misconduct *per se* into a defence, for removal of plaintiffs, as a Chairman of the Trust and whether the trust deed or the law applicable to the parties, gives a right to remove the plaintiff as per the procedure prescribed and whether such procedure was followed. This ought to have been seen in light of the material placed on record by the respective parties and its *prima facie* consideration without holding a mini-trial.

61. Unfortunately, the issues arising in the two appeals were not considered by the Appellate Court in its correct perspective and the reasons adopted by the Appellate Court were not germane or cogent as it lacked proper application of the legal propositions applicable to the facts and circumstances of the case.

62. This Court is conscious of its jurisdiction under Article 227 of the Constitution of India and in exercise thereof and it is not expected to enter into questions of fact or re-appraise the material or evidence on record to substitute its own findings. Hence, this Court cannot enter into the merits of the matter and give its own findings as that would amount to sitting as a court of appeal over the judgment of the Appellate Court. The Apex Court in **Nandi Infrastructure Corridor Enterprises Ltd. v. B. Gurappa Naidu, 2026 SCC OnLine SC 745**, in paragraph 35, after taking note of several earlier decisions on the aforesaid point, has culled out the principles as under:

“35. In short, the principles laid down in the above matters is as follows:

a) The power of superintendence under Article 227 is not to be exercised unless there has been an (a) unwarranted assumption of jurisdiction, not vested in Court or tribunal, or (b) gross abuse of jurisdiction or (c) an unjustifiable refusal to exercise jurisdiction vested in Courts or tribunals.

b) It is also well settled that the High Court while acting under this Article cannot exercise its power as an appellate court or substitute its own judgment in place of that of the subordinate court to correct an error, which is not apparent on the face of the record.

c) The High Court exercising supervisory jurisdiction does not act as a court of first appeal to reappreciate, reweigh the evidence or facts upon which the determination under challenge is based. Supervisory jurisdiction is not to correct every error of fact or even a legal flaw when the final finding is justified or can be supported. The High Court is not to substitute its own decision on facts and conclusion, for that of the inferior court or tribunal.”

CONCLUSION:-

63. For the reasons aforesaid, this Court is satisfied that the First Appellate Court has not considered the appeals in its correct perspective, hence the order impugned cannot be sustained. It is a fit case where the order impugned dated 08.07.2026 deserves to be set aside and the appeals be remitted to the First Appellate Court for decision afresh, where the appeals shall stand restored on the board. The parties shall appear before the First Appellate Court on 09.09.2026, on which date the Appellate Court shall rehear the parties and decide the appeal afresh preferably within a period of three weeks keeping in view the observations made by this Court. It is also clarified that the Appellate Court in exercise of its jurisdiction shall consider the plea of the respective parties on merits to adjudge whether the petitioner was entitled or not for relief of interim injunction, keeping in mind the observations made above.

64. Since the matter stands remanded to the Appellate Court for decision afresh and the order dated 08.07.2026 is set aside, hence, its effect would be that the order of the Trial court would revive. Thus, in order to protect the competing interest of the parties and noticing that the dispute also affects the functioning of hospitals and a medical college run by the Public Charitable Trust, accordingly, to protect and ensure accountability of the parties without jeopardizing the functioning of the Trust & its institutions, it is provided that none of

the bank accounts of the Trust would be operated singly or jointly by the petitioner and the respondent no. 1 till the decision of the Appeal. This Court directs that the said accounts of the Trust and the two institutions shall be operated jointly, by the petitioner and Sri Vikram Singh a founder trustee and any amount withdrawn would be only for the basic purposes of payment of salaries to the employees, staff and Doctors of the Hospital and the Trust and any recurring dues, if any, of banks and other financial institutions, payment of public utility bills, statutory dues, taxes or other like dues, and each withdrawal or payment so made shall be placed before the Appellate Court indicating the details, nature and purpose of the payment so made. This arrangement will be operative till the decision of the Appellate Court and thereafter it would follow and abide with the order to be passed by the Appellate Court.

65. Subject to the aforesaid directions and protection, the two petitions bearing (A-227) No. 4093 of 2026 & (A-227) No. 4313 of 2026 are **allowed**. The impugned order dated 08.07.2026 passed in Appeal Nos. 79 of 2026 and 80 of 2026 shall stand set aside. In the facts and circumstances, there shall be no order as to costs.

(Jaspreet Singh, J)

Order Date :- 01.09.2026

Asheesh