

Inherent Powers of Civil Courts under Section 151 CPC

S.S. Upadhyay

*Former District & Sessions Judge/
Former Addl. Director (Training)
Institute of Judicial Training & Research, UP, Lucknow.
Member, Governing Body,
Chandigarh Judicial Academy, Chandigarh.
Former Legal Advisor to Governor
Raj Bhawan, Uttar Pradesh, Lucknow
Mobile : 9453048988
E-mail : ssupadhyay28@gmail.com
Website: lawhelpline.in*

- 1. Inherent power of Civil Court u/s 151 CPC:** For the purpose of the discussion of the question in the context of the relevant provisions of the CPC, it is unnecessary to embark on any detailed or exhaustive examination of the circumstances and situations in which it could be predicated that a Court has the inherent jurisdiction which is saved by Section 151 of the Civil Procedure Code. It is sufficient if we proceed on the accepted and admitted limitations to the existence of such a jurisdiction. It is common ground that the inherent power of the Court cannot override the express provisions of the law. In other words, if there are specific provisions of the CPC dealing with a particular topic and they expressly or by necessary implication exhaust the scope of the powers of the Court or the jurisdiction that may be exercised in relation to a matter, the inherent power of the Court under Section 151 CPC cannot be invoked in order to cut across the powers conferred by the CPC. The prohibition contained in the CPC need not be express but may be implied or be implicit from the very nature of the provisions that it makes for covering the contingencies to which it relates. See: **Arjun Singh Vs. Mohindra Kumar, AIR 1965 SC 993**
- 2. Power u/s 151 CPC cannot be exercised in conflict with any other power of the Court expressly or impliedly provided in CPC:** Inherent power of the Court u/s 151 CPC is in addition to and complementary to the powers expressly conferred under the CPC but that power will not be exercised in conflict with any of the powers expressly or by implication conferred by other provisions of CPC. If there is a express provision in CPC covering a particular topic, then Section 151 CPC cannot be applied. See:

- (i) **Vareed Jacob Vs. Sosamma Geevarghese, (2004) 6 SCC 378 (Three-Judge Bench)**
- (ii) **Mahoharlal Chopra Vs. Rai Bahadur, AIR 1962 SC 527**
- (iii) **Ram Chand & Sons Sugar Mills Vs. Kanhyalal Bhargava, AIR 1966 SC 1899**

3. Inherent power u/s 151 CPC cannot be exercised so as to nullify the provisions of CPC: Inherent power u/s 151 CPC cannot be exercised so as to nullify the provisions of CPC. Where the CPC deals expressly with a particular matter, the provision should normally be regarded as exhaustive. See:

- (i) **State of U.P. Vs. Roshan Singh, 2008 (71) ALR 1 (SC)**
- (ii) **National Institute of Mental Health & Neuro Sciences Vs. C. Parmeshwara, 2005 (2) AWC 1865 (SC)**

4. Power u/s 151 CPC cannot be invoked to deal with an application for which there is a statutory provision in CPC: Power u/s 151 CPC cannot be invoked to deal with an application for which there is a statutory provision in CPC. Temporary Injunction can be granted by Court under Order 39, rules 1 & 2 CPC and not u/s 151 CPC. See: **Satya Prakash Tiwari Vs. Civil Judge (Jr. Div) Etawah & Others, 2006 (62) ALR 431.** Following cases have been relied on by the High Court in this case:

- (i) **Vareed Jacob Vs. Sosamma Geevarghese, (2004) 6 SCC 378 (Three-Judge Bench)**
- (ii) **Arjun Singh Vs. Mohindra Kumar, AIR 1965 SC 993**
- (iii) **Atmaram Properties Private Limited Vs. Federal Motors Private Limited, 2005 (58) ALR 650**
- (iv) **Chitivalasa Jute Mills Vs. Jaypee Rewa Cement, 2004 (54) ALR 706**
- (v) **Naina Singh Vs. Koowarjee, AIR 1970 SC 997**
- (vi) **State of W.B. Vs. Karan Singh Binayak, (2002) 4 SCC 188**

5. Section 151 CPC will not be available when there is alternative remedy: In the case noted below, the Hon'ble Supreme Court has held as under:

- (a) **Inherent power of the Court are not to be used for the benefit of a party/litigant who has remedy under CPC similar in the position vis-à-vis other statute.**

- (b) Objective of Section 151 CPC is to supplement and not to replace the remedies provided for in the CPC. Section 151 CPC will not be available when there is alternative remedy.
- (c) Section 151 CPC cannot be invoked when there is express provision under which relief can be claimed by the aggrieved party.
- (d) Inherent powers u/s 151 CPC are in addition to the powers specifically conferred on the courts. See: **State of U.P. Vs. Roshan Singh, 2008 (71) ALR 1 (SC)**
