**APPLICATION UNDER ORDER 39, RULE 7 OF THE C. P. C.**

IN THE COURT OF....................

Suit No..................... of 19........................................

C. D................................................................... Plaintiff

*versus*

C. F................................................................ Defendant

The applicant most respectfully submits as under: —

1. That the present suit has been instituted by the plaintiff/applicant against the defendant for recovery of immovable property.

2. That on an application moved by applicant under Order 38, Rule 5 C. P. C. the aforesaid movables have been attached and produced in the court on .................... (date),

3. That the movables forming the subject-matter of the suit being valuable, it is expedient in the ends of justice that the said movables be detained and preserved by this Hon’ble court.

**PRAYER**

It is therefore most respectfully prayed that the movables specified in Annexure A annexed to this application be ordered to be detained and preserved.

It is prayed accordingly.

Applicant

Through Advocate

Place:....................

Dated:....................

**CASE LAW**

***Order 39, Rules 6 to 10.***

**INTERLOCUTORY ORDERS — TRIAL COURT’S ABSOLUTE JURISDICTION TO DECIDE THE MATTER—OBSERVATIONS OF SUPERIOR COURT ONLY FOR A LIMITED PURPOSE.**

It is now fairly well known that any observations made in the course of interlocutory proceedings are for limited purpose of those proceedings and the trial court is always free and in fact is expected to decide the matter uninfluenced by

any observations regarding appreciation of evidence etc., made by the revisional court for the limited purpose of those proceedings. The trial court will decide the matter in accordance with law in the light of its own assessment1.

**PROVISO—WHEN ORDER OF INJUNCTION IS ILLEGAL**

Where temporary injunction is granted without notice to opposite party but reasons for court’s opinion that delay would defeat the object of injunction if it were not given, the order of injunction is illegal2.

***EX PARTE* INJUNCTION TO PLAINTIFF PARTNERS RESTRAINING DEFENDANT PARTNERS WHEN CAN BE GRANTED.**

While it is true that being partners the appellant’s right to participate in the business of the plaintiff and to have access to the place of business and the account books cannot be denied, it is equally true that they cannot be permitted to carry hostile activities which may adversely affect the partnership business itself and may bring it to a stand still. The trial court’s step to prevent the appellants from interfering with the day to day management and working of the partnership, cannot be said that the formation of opinion by trial court to proceed in terms of Rule 3 and its proviso to pass an *ex parte* temporary injunction violates any of those provisions and calls for any interference3.

1. Rajbir Singh v. Rajbir Singh and another, 1986 (Supp. ) S. C. C. 736.

2. Amyia Prasad v. Bejoy Krishna Chakraborty, A. I. R. 1981 Cal. 351.

3. Bipin Chandra v. M/s. Purshottam Bhai Bhori Bhai & Co., A. I. R. 1984 M. P. 110: i 984 Jab. L. J. 292: 1984 M. P. L. J. 238.