**APPLICATION UNDER SECTION 151 C.P.C. ON BEHALF OF THE PLAINTIFF**

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

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

......................................................................... Plaintiff

*Versus*

................................................. Respondents/defendant

Sir,

It is submitted as under:

1. That the abovenoted case is pending before this Hon’ble Court, and is fixed for...................

2. That the above case was last fixed for................... and due to strike of Advocates the arguments on the application u/s 39 Rules 1 & 2 read with section 151 C. P. C. could not be made before this Hon’ble Court and the plaintiff could not get the relief in the above case.

3. That on................... the Bailiff of the court of................... went to the house of the applicant/plaintiff and directed the plaintiff to handover the possession of the suit premises to the defendants without any reasons the defendants has filed execution proceedings, in the Court of................... and whether the execution order has been passed or not, and the plaintiff has no knowledge about the execution proceedings, and has not been served with any notice of the court in the execution proceedings.

4. That the defendants are trying to take the possession of the suit premises by playing fraud................... before the court of................... while the plaintiff has filed a suit for permanent injunction alongwith application u/o 39 rules 1 & 2 read with section 151 C. P. C. but due to strike the plaintiff could not get any relief from this Hon’ble Court.

5. That the applicant shall suffer irreparable loss and injury if the execution proceedings, pending in the court of................... is not stayed till the final disposal of the abovesaid suit.

*6.* That the balance of convenience lies in favour of the applicant and against the respondents.

7. That the applicant has a good *prima facie* case in her favour.

8. That the bailiff of the court of................... has also visited the house and threatened the plaintiff that he will take the possession of the suit premises within a day or two.

It is, therefore, prayed that the execution proceedings in the above case may kindly be stayed and the *status quo* in favour of the plaintiff and against the respondents may kindly be granted keeping in view the facts and circumstances of the case.

Applicant/plaintiff.

Through

(Counsel)

Dated:............... Delhi

Affidavit enclosed.

**case law**

***Section 151***

**EXERCISE OF INHERENT POWERS**

It depends upon facts and circumstances of each case whether alternative remedy available would debar invoking inherent jurisdiction under this section1.

***SUO MOW* ORDER OF COURT WHEN VALID**

Where execution case was dismissed for default in ignorance of the facts of the case, the mistake was brought to Court’s notice and the Court acted *suo motu* and vacated that order. Such order was correctly passed because none could be prejudiced by a mistake made by the Court2.

**INHERENT JURISDICTION WHEN NOT AVAILABLE**

Inherent jurisdiction of a Court under this section cannot be resorted to when the aggrieved party has got a specific remedy available under law3.

A Court has no inherent powers to set aside an *ex-parte* decree under its inherent powers as there is express provision in the Code4.

**WHEN INHERENT POWERS CANNOT BE INVOKED**

Where suit decreed *ex-parte* application under Order *9* Rule 13 also dismissed in default, the aggrieved party may either file an application under Order 9 Rule 9 read with section 141 for restoration of the application dismissed for default or file an appeal under Order 43 Rule 1. Such alternative remedies being available, inherent powers under Section 151 cannot be invoked5.

**WHEN ORDER REJECTING PLAINT CANNOT BE RECALLED UNDER THIS SECTION**

Where on the date on which the plaintiffs application for extention of time for payment of defecit court fee and plaint were rejected, the plaint had become time barred, the order rejecting the plaint could not be recalled in exercise of powers under this section6.

**NO RESTORATION ON BASIS OF STAY ORDER AFTER EXECUTION OF DECREE FOR POSSESSION.**

Where stay order could not be communicated to the bailiff before the possession was actually delivered to the decree-holders, the stay order became inoperative. The trial Court is not vested with any inherent jurisdiction to restore possession to the respondent7.

Inherent powers of the High Court cannot be invoked to vacate the judgments of the courts below on the ground of fraud by suppressing certain documents8.

When a memorandum of appeal is presented with proper Court-fees but out of time, with an application for condonation of delay and if the delay is not condoned the Court cannot under its inherent powers give a certificate for refund of the Court-fees paid9.

Appointment of compensation between different claimants under the Land Acquisition Act cannot be ordered in the exercise of inherent powers10.

***Section 151***

**INHERENT POWER OF COURT**

Nothing can limit or affect the inherent power of court to meet the ends of justice.11

**APPLICATION FOR SETTING ASIDE COMPROMISE DECREEE — MAINTAINABILITY**

***Section 151***

An application under Section 151 of the Code of Civil Procedure for setting aside the compromise decree on the allegation that the same is unlawful, is maintainable under Section 151 of the Civil Procedure Code.12

**POWER TO CORRECT DECREE**

The court has got jurisdiction under Section 151 of Civil PC, to correct the decree when it was interpolated after its passing.13

1. Joy Deb Mukherji v. M/s. William Jacks & Co. (India) Ltd., A. I. R. 1981 Cal. 267: (1981) 85 C. W. N. 671: (1981) 1 C. H. N. 477.

2. Gopal Chandra v. Hiranya Prova, A. I. R. 1981 Cal. 338: (1981) 85 C. W. N. 949.

3. J. Dorairaj v. V. R. & Co., A. I. R. 1973 Mad. 135.

4. Badri Narain Sharma v. Panchayat Samiti, A. I. R. 1973 Raj. 29.

5. Haji Rustam Ali v. Emannuddin Khan, A. I. R. 1981 Cal. 81.

6. Joy Deb Mukherjee v. M/s. William Jacks & Co. (India) Ltd., A. I. R. 1981 Cal. 267: (1981) 85 C. W. N. 671: (1981) 1 C. H. N. 477.

7. Paikamma v. Maroti, A. I. R. 1983 Bom. 363: 1983 Mah. L. J. 589.

8. Pokala Ranganayakamma v. Modireddy Venkatachalapati Rao, A. I. R. 1966 Andh. Pra. 91: (1965) 2 Andh. L. T. 250: (1965) 2 Andh. W. R. 487.

9. Eagle Plywood Industries Private Limited v. Amaly Gopal Majumdar A. I. R. 1966 Cal. 267 (F. B. ) 69 Cal. W. N. 1025.

10. Amar Nath v. State of Punjab, 1966 Cur. L. J. 554.

11. Lakshmi v. Khader Basha, 2001 (4) CCC 137 (Mad.).

12. Babulal v. Smt. Chaturiya, 2001 (1) CCC 23 (MP).

13. Tilya Devi v. Chandrama Singh, 2000 (2) CCC 92 (Pat.).