**REPLY OF THE DEFENDANT TO THE APPLICATION UNDER ORDER 39 RULES 1 & 2 AND SECTION 151 C. P. C.**

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

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

*versus*

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

Date of hearing............................

Sir,

The defendants respectfully submits as follows:

1. In reply to Para 1 of the application it is not denied that the plaintiff has filed a false, frivolous suit in this Court. It is also submitted that the allegations made in the plaint are entirely false, baseless, untrue and concocted one. The defendants are filing herewith written statement. The same may be read as part of this reply, which shows the correct facts,

2. Para 2 of the application is wrong and is denied.

3. Para 3 of the application is not denied.

4. Para 4 of the application is wrong and is denied. The suit of the plaintiff cannot be decreed merely because the defendants will take possession under the decree passed and for which execution is pending in the court of....................

5. Para 5 of the application is wrong and is denied. It is denied that the respondents are not entitled for the possession as the decree which is subject matter of execution pending in the court of.................... was obtained by the father of the respondents No. 2 to 8 and husband of respondent No 1. by applying fraud on the plaintiff as well as upon the Hon’ble Court of*.....................* in suit No..................... and in the interest of justice, the said execution is required to be stayed. No such stay can be granted.

6. Para 6 of the application is wrong and is denied. It is denied that if the respondent will succeed in getting possession of the suit property in execution of the said decree the applicant will suffer irreparable loss and injury which cannot be compensated in terms of money. In fact, it is the defendants who will suffer irreparable loss and injury in case the execution of the decree is stayed.

7. Para 7 of the application is wrong and is denied. Plaintiff has no case what to say of a good *prima-facie* case. The balance of convenience is not *in* favour of the plaintiff but in favour of the defendants.

8. Para 8 of the application is wrong and is denied.

**PRAYER**

Prayer clause is denied. The application is false, frivolous and vexatious, misconceived and is not maintainable in law. The plaintiff has not come to the court with clean hands and has suppressed the material facts. Even otherwise no relief can be granted to the plaintiff as the same is barred under Section 41(b) Specific Relief Act, 1963. The present application is liable to be dismissed with costs. It is therefore prayed that the present application may be dismissed with costs.

Defendants

Through Advocate

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

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

**AFFIDAVIT**

................. AGED ABOUT................... YEARS, OCCUPATION...................... R/O........................

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

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

*versus*

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

I, the abovenamed deponent do hereby solemnly affirm and state on oath as under:

1. That the contents of the accompanying reply to the application under Order 39 Rules 1 & 2 and Section 151 C. P. C. and the Written Statement has been read and understood by the deponent. The statement of facts made therein are true and correct to the knowledge of the deponent.

**Deponent**

**VERIFICATION**

Verified at.................... on this.................... day of.................... that the contents of the above affidavit are true to my knowledge. No part of it is false and nothing material has been concealed therefrom.

**Deponent**

***EX-PARTE* INTERIM INJUNCTION**

***Order 39 Rule 1***

Any order passed in exercise of the powers under Order 39 Rue 1 would be appealable as indicated in Order 43 Rule 1 of the code. The choice is for the party affected by the order either to move the appellate Court or to approach the same Court which passed the *ex-parte* order for any relief.1

**INTERIM RELIEF UNDER ARTICLE 226**

Even if Order 39 of the C. P. C. would not be applicable at the stage of granting interim relief in a petition under Arts. 226 or 227 of the Constitution, but at the same time various principles laid down under Order 39 for granting ad-interim or interim reliefs are required to be taken into consideration.2

**INJUNCTION — DISCRETIONARY RELIEF**

***Order 39 Rules 1 and 2***

Injunction is a discretionary relief which cannot be extended in favour of a person who is in arrears of a huge amount of Licence fee. 3

**COURT NOT TO HOLD MINI TRIAL AT STAGE OF GRANTING TEMPORARY INJUNCTION**

It may not be appropriate for any Court to hold mini trial at the stage of grant of temporary injunction. 4

1. A. Venkatasubbiah Naidu v. S. Chellappan, AIR 2000 SC 3032.

2. Union of India v. Era Educational Trust, AIR 2000 SC 1573.

3. M/s. CCS (P) Ltd. v. Sports Authority of India, AIR 2001 Delhi 148.

4. Anand Prasad Agarwalla v. Tarkeshwar Prasad, 2001 (2) CCC 189 (SC).