

Adjournments and Stay matters How to address.

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WHAT IS ADJOURNMENT?

- A putting off or postponement of proceedings;
- an ending or dismissal of further business by a court , legislature , or a public official---
either temporarily or permanently .

The act of a court by which session is postponed

ADJOURNMENT

- Dictionary meaning of adjourn :
- Break up , recess , retire or withdraw .
- To stop a meeting or an official process (here
process of court)

- If an adjournment is final , it is said to be sine die, “without day ” or without a time fixed to resume the work .
- An adjournment is different from a recess , which is only short break in proceedings.

WHAT DOES IT MEAN WHEN A CASE IS ADJOURNED/RESCHEDULED?

- It means the case is paused/ put on hold for sometime .
- The case is adjourned for a number of reasons and at many different points in the trial process .

Adjournment ;a tool to delay proceedings .

- Frivolous grounds for adjournment.
- Malafide of either party .
- Adjournment without sufficient cause
- Costs of adjournment

STAY/ T.INJUNCTIONS

- A judicial remedy issued in order to prohibit a party from doing or continuing to do a certain activity(Dictionary meaning)
- The act of temporarily stopping judicial proceedings through order of the court.
- Discretionary relief
- Can be granted only in a suit

DIFFERENCE BETWEEN STAY & T.INJUNCTIONS

Stay

- Nature and incident of order addressed to or binds
- A subordinate court or
- A tribunal
- From further proceeding or
- Executing an order passed

- Takes effect immediately on being passed
- even if not brought to notice of lower court.

(1983 SCMR 869)

- Same ingredients as that for injunctions
(2001 MLD224)

T. Injunction

- An injunction is essentially directed against an individual
- Enjoins a party to a proceeding from doing or omitting to do certain
- Becomes operative upon being served (NLR 1978 Civ 769)

TYPES OF STAY/T. INJUNCTIONS

- Stay of proceeding .
- Order of the court(during proceeding)
restraining or directing to do an act .
- Stay of Execution

NATURE OF STAY ORDER

- Mandatory
- Directory
- Prohibitory
- Status quo ante

PROCEDURE

- Definite procedure to be adopted
- Court not to invent procedure independently
- Disposal of application in most summary and mechanical manner not permitted
- order should not be vague and in general terms

(PLD 1995 SC 572)

- Technicalities not to defeat ends of justice
- Notice to opposite party mandatory except in
extra ordinary situation
- Party seeking relief with clean hands
- Delay in main suit to be avoided

Principles governing injunctions/stay

- There must be a legal right and
- an actual or threatened invasion of that right
- That wrongful right apprehended will be done or repeated
- apprehended injury either continuous ,or
- frequently repeated or very serious

- In suit for injunctions damages may be alternative remedy
- In combination four requirements
- 1)injury to Pltff 's legal right is small,
- 2)capable of being estimated in money
- 3)can be adequately compensated
- 4)It would be oppressive to defendant
(AIR 1942 Bom241)

- Money compensation - no bar

(AIR 1955Mad 542)

Case of encroachment plfff can be compensated in damages but it would be put a premium upon encroacher

(AIR 1920 79)

- Where it is prima facie shown that no final relief can be granted no T. injunction. (1991 CLC 734)

No part can be stopped from moving a court for redress of his grievance , as it would be an embargo upon undoubted right of a party (AIR 1944 220) (AIR 1941 442)

Minority of defendant

- Minority per se no ground for refusing injunctions
(AIR 1931 Bomby 466)
- Where guardian of a minor against whom injunction is sought gives up defense injunction may be refused
(AIR 1931 Sind 136)

THANK YOU