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Email: editor@whiteblacklegal.co.in

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With this thought, we hereby present to you

WHITE BLACK LEGAL: THE LAW JOURNAL

CONCEPT OF INTERPLEADER SUITS UNDER CODE OF CIVIL PROCEDURE

Meenakshi Sharma, 4th year BA LLB

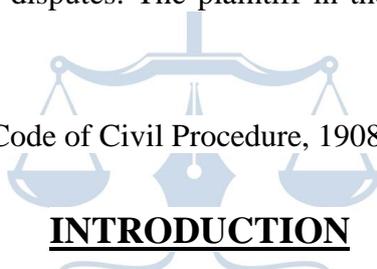
Ritik Sharma, 3rd year B. Com LLB

ABSTRACT

This article is a review of the scope and the area of operation of Sec. 88 read with Order 35 of the Code of Civil Procedure, 1908 dealing with intermediary litigation.

An interpleader suit is one in where the real dispute / dispute is not between the plaintiff and the defendant, but only between the defendants. The sign of the intermediate lawsuit is that in the intermediate lawsuit, the plaintiff is not really interested in the subject of the lawsuit. The primary purpose of the intermediary lawsuit is to determine the claims of the competitor's defendant, because in the intermediary lawsuit, only the defendant must have some debt, or some money or other property disputes. The plaintiff in the middle suit must be in a fair / non-arbitrary position.

Keywords: Interpleader Suits, Code of Civil Procedure, 1908.



INTRODUCTION

Interpleader litigations are those that have no direct connection to the subject matter of the litigation. A lawsuit filed by a third party is a ruling on the defendant 's claim on certain property. In this research work, we first dealt with the English "Halsbury Law" based on the same principles contained in Sec. 88 of the Civil Procedure Law of 1908.

The Civil Procedure Law of 1908 then clearly stipulated the different parties to the lawsuit. Order No. 35 of the Civil Procedure Code of 1908 broadly covers the rules governing Interpleader litigation procedures. It also stipulates that the person who cannot file an intermediary lawsuit. If someone files a lawsuit, the court can bear the cost to the plaintiff by prosecuting the defendant / claimant to the plaintiff. , In other equally effective ways. In this research work, we tried to critically analyze the concepts related to interspersed suits, but this work is not a complete study of the subject, and further research on this issue is possible.

o INTERPLEADER SUITS: ITS MEANING

It is a suit documented by an individual who has no immediate enthusiasm and interest for the topic of the suit. It is a suit recorded or filed by an outsider in the court to have mediation

of the opponent cases of the respondents over some article, cash or property. In different words if the prosecution is in control of some article, things or property (in which he isn't having direct premium or he might be a caretaker or partner) and on the off chance that he is in a predicament over the adversaries cases of the respondents, he may record interpleader suit in the court having jurisdiction to have assurance regarding who is the genuine proprietor of the article, things or property. Inter-pleader suit is represented by Order 35 of the Code of Civil Procedure, 1908¹

o **THE HALSBURY'S LAWS OF ENGLAND**

"Where an individual is under obligation in regard of a loan or debt or in regard of any cash, products or belongings and he is, or hopes to be sued for or in regard of the obligation or cash or those merchandise or assets, by at least two people making antagonistic cases thereto, he may apply to the court for alleviation by method for interpleader²".

o **SECTION 88 OF THE CODE OF CIVIL PROCEDURE, 1908**

Sec. 88 of the CPC, 1908, states that, where at least two people guarantee antagonistically to each other some obligation, whole of cash or other property (moveable or immoveable) from someone else, who in real or in fact doesn't have any direct interest for that entirety of cash or property aside from the expense or charges brought about by him in organizing an interpleader suit as well as for the security or shielding the property and is prepared and ready to pay or convey the total of cash or property to the legitimate inquirer, at that point, such someone else can document an interpleader suit. The pre-condition for documenting an interpleader suit is that-on the date of filing of an interpleader suit there must be no suit pending in which the privileges and rights of the opponent inquirers can be appropriately decided.

On account of *Asan v. Saroda*³, it was held that, where respondents don't guarantee and claim unfavorably or opposite to one another, nor does the offended party concede the title of one of the litigant or is eager to pay or convey the property to him, the suit isn't interpleader.

o **CONDITIONS TO INSTITUTE INTERPLEADER SUIT**

Following conditions must be satisfied to institute an interpleader suit:

¹ <http://www.lawzonline.com/legalencyclopedia/i/interpleader-suit.html>, accessed on April 30, 2017.

² Lord Hailsham, *THE HALSBURY'S LAWS OF ENGLAND*, 4th ed. 1987, p.200.

³ AIR 1922 Cal 138

- (a) there must be some debt, sum of money or other property movable or immovable in dispute;
- (b) two or more persons must be claiming it adversely to one another;
- (c) the person from whom such debt, money or property is claimed, must not be claiming any interest therein other than the charges and costs and he must be ready to pay or deliver it to rightful claimant; and
- (d) there must be no suit pending in which the rights of the rival claimants can be properly decided.

o **PLAINT IN AN INTERPLEADER SUIT**

Order 35, Rule 1 of the C.P.C , 1908 require the interpleader to state in his plaint that, the offended party guarantees no enthusiasm and interest for the subject matter of suit and the cases set forth by the respondents severally. The interpleader should likewise completely express that, there is no differences between the parties of the suit, that is, the offended party and any of the litigants. The interpleader must indicate in the plaint, the cases made by the respondents severally, and should communicate his consent to bring the property (on the off chance that it is moveable) in the eyes of court. The interpleader in the prayer condition of his plaint must implore the Hon'ble Court to give him the expense brought about by him in founding the suit and furthermore, some other charges caused by the interpleader in keeping up or potentially protecting the property in contest, which the litigants guarantee unfavorably to each other.

o **PAYMENT CLAIMED INTO COURT**

Order 35, Rule 2 of the CPC, 1908, gives that where a thing guaranteed or claimed is with the end goal that, it is equipped for being paid into the court, at that point, the offended party/interpleader might be required to pay such sum or thing in the court. Accordingly, the court has arbitrary power to make such orders as respects the topic in question and the parties concerned will undoubtedly be under obligation to obey the order, before asking for any relief⁴.

o **PROCEDURE WHEN DEFENDANT IS SUING PLAINTIFF**

Order 35, Rule 3 of the Code of Civil Procedure, 1908, which states that, where any of the litigants in an interpleader suit is really suing the offended party in regard of the topic of such

⁴ Syed ShamshulHaque v. Sitaram Singh &Ors, AIR 1978 Pat. 151

suit, the court wherein the suit against the offended party is pending, on being notified by the court in which the interpleader suit is pending, will remain the procedures in that suit as against.

On account of *Satyanarain v. Dist. Judge, Tonk & Ors*⁵, it was held that, it isn't as though that once the suit for interpleader is recorded, the other suit must be stayed naturally; so as to conjure the force under Order 35, Rule 3 of the Code of Civil Procedure, 1908, the offended party (or interpleader) is compelled by a solemn obligation to set up an *at prima facie* case in support of him⁶.

o **FIRST HEARING PROCEDURE**

Order 35, Rule 4 of the C.P.C, 1908 engages the court to proclaim at the principal hearing itself, that the offended party is released from all liabilities and as an essential conclusion the court can grant the offended party his expenses and excuse him from the suit. In any case, if the court is of the supposition that equity, appropriateness and comfort necessitates that all party to the suit be required, held, at that point, the court will not release the offended party till the final decree of the suit has passed⁷. If that the court thinks that its essential, at that point, it can coordinate that specific different issues be confined and attempted alongside different issues but the suit, and that any inquirer (that is, respondent in the interpleader suit) be made an offended party in lieu of or notwithstanding unique offended party⁸.

o **WHO CANNOT FILE INTERPLEADER SUIT**

Order 35, Rule 5 of the C.P.C, 1908 states that, agent can't sue his master, and comparatively, tenant can't sue his proprietor or landlord to force such principals/landowners to inter plead with people other than the ones guaranteeing through them⁹.

On account of *N.M.N. Duraiswami Chettiar v. Dindigul Urban Co-operative Bank Ltd*¹⁰, held that, on a contest concerning the responsibility for store emerging between the clients and the third individual, an interpleader suit recorded by the bank, would not come quite close to Order 35, Rule 5 of the Code of Civil Procedure, 1908.

⁵ Sir Dinshaw Fardunji Mulla, THE KEY TO INDIAN PRACTICE, 18th ed. 2011, p.217.

⁶ S.B. Civil Writ Petition No. 15587/2009, High Court of Rajasthan, Date of Decision: 18.08.2010, Coram: R.S. Chauhan, J.

⁷ Sailender Malik, CODE OF CIVIL PROCEDURE, 27th ed. 2011, p. 496.

⁸ Ibid

⁹ Jugal Kishore & Anr v. Bhagwan Das AIR 1990 P&H 82

¹⁰ AIR 1957 Mad 745

INTERPLEADER SUITS BY RAILWAY COMPANY.

A railway company does not become a shipper 's agent by accepting transported goods. It only signs an independent contract with the shipper. Therefore, it can sue the shipper and the other party who is unfavorable to the shipper.

INTERPLEADER SUITS BY TENANTS.

The basis for prohibiting the tenant from filing a interpleader lawsuit against the landlord is that the tenant cannot dispute the landlord 's ownership during the life of the tenant. Therefore, the tenant cannot force him to file a lawsuit with the landlord to force him to intersect with anyone other than the person who made the claim through the landlord. Therefore, if a tenant passes two kabuliats on the same land in favor of two people, then under the threat of litigation between the two of them, they file a lawsuit and pray that "the court can happily announce which defendant has what rights in it". The disputed land, and which right the plaintiff holds the said land and on which land ", the Calcutta High Court ruled that the lawsuit cannot be sustained.

However, the doctrine of estoppel between the lessor and the lessee does not apply to the lessee 's right to challenge the derivative ownership of the person who claims to have the right to return thereafter. Therefore, the lessee granted an intermediary lawsuit to the lessor 's assignee and the government, and the leased property was vested in the government to determine whether the accused rent and royalties should be paid to which defendant.

The tenant feels that there is any difficulty in paying the rent, he can invoke the provisions of Order No. 35, he can file an intermediary lawsuit, and he can submit to obedience when both people consider themselves as landlords. The court should recognize him as a tenant and should The rent is returned to the tenant. For rent, the court will decide who is the landlord.

Where the female landlord died, the tenant filed a lawsuit asking her to determine which female landlord should pay the rent, and then she began paying rent to one of the two so-called heirs.

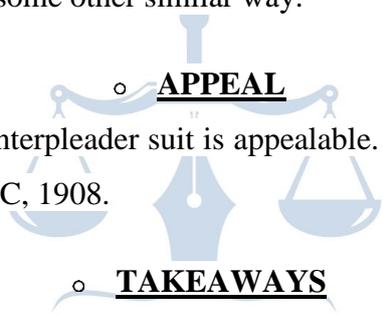
However, other heirs never claimed to be the landlords of the plaintiff 's tenants. As a result, the tenant 's intermediate lawsuit denying ownership of its landlord cannot be sustained.

If A rents a piece of land to B, and after A dies, two people ask B for rent, that is, A's heir and a person who claims that A is just a garnishee for X's heir, thinks that the latter must be considered as passed A filed a claim, therefore: B could file a middleman suit, forcing the two claimants to intermediate each other.

If the mortgagee does not deny his right to guarantee X, but only thinks it can be avoided, then the mortgagee can treat the transferee as entitled to receive money, and there is no need to bring an interpleader lawsuit against the mortgagee and X.

o **CHARGE FOR PLAINTIFF'S COSTS**

Order 35, Rule 6 of the C.P.C, 1908 states that, when an interpleader suit is properly and in appropriate manner instituted, then, the court can accommodate for the expenses to be given to the original plaintiff either by giving him a charge on the thing claimed and guaranteed by the litigants/ defendants, or, in some other similar way.



o **APPEAL**

Order for the dismissal of the interpleader suit is appealable. An appeal can be claimed under Order XLIII, Rule 1 of the C.P.C, 1908.

o **TAKEAWAYS**

1. To inter plead signifies “ to have a suit or dispute with each other to settle a point concerning a third party”.
2. In an interpleader suit the genuine question is not between the prosecution and respondents but amongst the respondents themselves.
3. In an interpleader suit plaintiff's position must indicate fair-mindedness and non discretion or absence of arbitrariness.
4. An interpleader suit won't lie if the prosecution has any direct interest for the subject-matter in the suit or is in intrigue with one of the litigants¹¹.
5. The party filing an interpleader suit should walk-out of the suit by receiving the claim for costs¹².

¹¹ Sambayya v. SubbaReddi, AIR 1952 Mad 564

6. So, as to decide the specific idea of the suit, regards must be had to all the supplications in the plaint; it will not count as interpleader suit only because one of the reliefs has reference to it .

o **LEGAL PROVISIONS FOR INTERPLEADER SUITS**

As per Pomeroy in his book Equity Jurisprudence , for an interpleader suit to be documented there are sure basic conditions which ought to be satisfied. He expressed that-

- (I) something very similar, obligation or debt must be asserted by both or all the party against whom the relief is requested;
- (II) All their unfavorable titles or claims must be reliant, or be gotten from a typical source;
- (III) The individual asking the claim or relief must not have or guarantee any direct interest in the subject matter

The general rule on which such suits are based is that the individual possessing the res having no interest for it ought not be constrained to be engaged with various suits recorded or filed by the proprietors of the property in contest.

He ought to be assuaged of this weight by moving toward the court and placing the res in the care of the court. The weight at that point moves on the court to guarantee that the said property comes to the bonafide proprietor. Therefore suits of such nature were made genuine to secure the individual possessing the said res from 'twofold vexation' when there is just a 'solitary risk'.

The individual is ownership records the interpleader suit and turns into the offended party while the other party asserting legitimate proprietorship become the litigants. The plaintiff in such suits are alluded as applicant and respondents as claimants. In the event that the candidate is sued by the inquirer in an ordinary suit, at that point he would need to shoulder all the expense of the suit. Be that as it may, on account of interpleader suits, the candidate doesn't bear any cost to the suit and whatever cost is brought about by the offended party is repaid to him by the Court as indicated by Rule 4 of Order 35.

¹² National Insurance Co. v. Dhirendra, AIR 1938 Cal 287

The Calcutta High Court, in *Asaan Ali v Sarada Charan Kastagir* held that for a suit to be an interpleader suit, the candidate ought to be willing to handover the property to the petitioner and ought not have any interest for it. At the point when the candidate having an claim for the res are documented then such suits will be excused on the revelation of the way that the offended party has an claim for the topic of the suit. With the progression of time, the courts in the United States presently have an alternate methodology with regards to the Applicant's interest for the topic.

If, that the topic of the suit or the res is appropriate to be put in the guardianship of the court, at that point the court may arrange the Applicant at its own discretion to store the equivalent.

The candidate is limited by the Court's structure and can't challenge it as the key necessity in such suits is the non attendance of Applicant's interest for the topic.

The provision of Rule 5 Order 35 , forbids the tenants from scrutinizing the possession or title of their landowners during the period when the tenure is as a result.

Notwithstanding that, there are sure conditions when the occupant can document an interpleader suit during the subsistence of tenure. In the event of a battle between the lawful beneficiaries of the perished proprietor or the landowner over the responsibility for property, the inhabitant gets the chance of documenting an interpleader suit to decide the real proprietor of the property and the legitimate beneficiary of the lease to be paid.

It was held in *Neeraj Sharma v The District Sangpur Khadi Gram*, by the Punjab and Haryana High Court that an interpleader suit by an inhabitant will be viable if the other individual guaranteeing a directly over the contested property is doing as such through the first proprietor and such suits won't be viable if the individual autonomously asserts responsibility for property and lease from the occupant.

The Punjab and Haryana High Court held a suit organized by an occupant to be viable where after the death of land owner two party were guaranteeing or claiming the title and responsibility for property.

In *Om Prakash Kapoor v Nirmala Devi* the responsibility for leased property was asserted by the expired's nephew and a woman who had bought the said property from the perished's

better half. The court held that the occupant for this situation was qualified for know to which of the two gatherings lease was to be paid and henceforth the suit documented by him ought to be viable.

The circumstances under Rule 5 where the occupants are not permitted to document an interpleader suit against the landowner do exclude conditions where somebody, other than the genuine proprietor by distortion causes the inhabitant to trust the person in question to be the proprietor. There is no exceptional arrangement allowing the occupant to initiate a suit under such conditions in a mess about the personality of the genuine proprietor of the property.

CONCLUSION

The Interpleader Litigation has a protective effect on the plaintiff 's possession of property that does not belong to him, and he filed a lawsuit in the court to properly try any property. This protection mechanism can be traced back in England' s Halsbury Law , which also has the same principle. Sec. 88 of the Civil Procedure Law of 1908 covers Interpleader litigation extensively, and the rules are based on Order 35 of the Civil Procedure Law of 1908. For this topic, the content of the plaintiff plays a very important role. The inter-prosecutor must clearly state that there is no collusion between the parties to the litigation, namely the plaintiff and any defendant. The intermediary should also mention litigation costs in the prayer clause. However, Sec. 5 of the Civil Procedure Law of 1908, Order No. XXXV, prohibits some people from bringing suits. Therefore, agents cannot sue their clients, nor can tenants sue their landlords to force such clients / landlords to intertwine with those who make requests through them.

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