

# INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi-Disciplinary  
Peer Reviewed

[www.ijlra.com](http://www.ijlra.com)

## DISCLAIMER

No part of this publication may be reproduced, stored, transmitted, or distributed in any form or by any means, whether electronic, mechanical, photocopying, recording, or otherwise, without prior written permission of the Managing Editor of the *International Journal for Legal Research & Analysis (IJLRA)*.

The views, opinions, interpretations, and conclusions expressed in the articles published in this journal are solely those of the respective authors. They do not necessarily reflect the views of the Editorial Board, Editors, Reviewers, Advisors, or the Publisher of IJLRA.

Although every reasonable effort has been made to ensure the accuracy, authenticity, and proper citation of the content published in this journal, neither the Editorial Board nor IJLRA shall be held liable or responsible, in any manner whatsoever, for any loss, damage, or consequence arising from the use, reliance upon, or interpretation of the information contained in this publication.

The content published herein is intended solely for academic and informational purposes and shall not be construed as legal advice or professional opinion.

**Copyright © International Journal for Legal Research & Analysis.  
All rights reserved.**

## ABOUT US

The *International Journal for Legal Research & Analysis (IJLRA)* (ISSN: 2582-6433) is a peer-reviewed, academic, online journal published on a monthly basis. The journal aims to provide a comprehensive and interactive platform for the publication of original and high-quality legal research.

IJLRA publishes Short Articles, Long Articles, Research Papers, Case Comments, Book Reviews, Essays, and interdisciplinary studies in the field of law and allied disciplines. The journal seeks to promote critical analysis and informed discourse on contemporary legal, social, and policy issues.

The primary objective of IJLRA is to enhance academic engagement and scholarly dialogue among law students, researchers, academicians, legal professionals, and members of the Bar and Bench. The journal endeavours to establish itself as a credible and widely cited academic publication through the publication of original, well-researched, and analytically sound contributions.

IJLRA welcomes submissions from all branches of law, provided the work is original, unpublished, and submitted in accordance with the prescribed submission guidelines. All manuscripts are subject to a rigorous peer-review process to ensure academic quality, originality, and relevance.

Through its publications, the *International Journal for Legal Research & Analysis* aspires to contribute meaningfully to legal scholarship and the development of law as an instrument of justice and social progress.

## ***PUBLICATION ETHICS, COPYRIGHT & AUTHOR RESPONSIBILITY STATEMENT***

The *International Journal for Legal Research and Analysis (IJLRA)* is committed to upholding the highest standards of publication ethics and academic integrity. All manuscripts submitted to the journal must be original, unpublished, and free from plagiarism, data fabrication, falsification, or any form of unethical research or publication practice. Authors are solely responsible for the accuracy, originality, legality, and ethical compliance of their work and must ensure that all sources are properly cited and that necessary permissions for any third-party copyrighted material have been duly obtained prior to submission. Copyright in all published articles vests with IJLRA, unless otherwise expressly stated, and authors grant the journal the irrevocable right to publish, reproduce, distribute, and archive their work in print and electronic formats. The views and opinions expressed in the articles are those of the authors alone and do not reflect the views of the Editors, Editorial Board, Reviewers, or Publisher. IJLRA shall not be liable for any loss, damage, claim, or legal consequence arising from the use, reliance upon, or interpretation of the content published. By submitting a manuscript, the author(s) agree to fully indemnify and hold harmless the journal, its Editor-in-Chief, Editors, Editorial Board, Reviewers, Advisors, Publisher, and Management against any claims, liabilities, or legal proceedings arising out of plagiarism, copyright infringement, defamation, breach of confidentiality, or violation of third-party rights. The journal reserves the absolute right to reject, withdraw, retract, or remove any manuscript or published article in case of ethical or legal violations, without incurring any liability.

# **A CRITICAL STUDY ON MISUSE OF TEMPORARY INJUNCTIONS IN LANDLORD AND TENANT DISPUTES.**

AUTHORED BY - NAVEENKUMAR.L  
Student of III LL.B., School of Law, VISTAS

CO-AUTHOR - MRS.C.SALINI  
Associate Professor and Research Supervisor, School of Law, VISTAS.

## **ABSTRACT**

### **Introduction**

The law relating to landlord–tenant relationships in India occupies a crucial position within the broader framework of civil and property law. Given the increasing urbanisation and the growing dependence on rental housing and commercial spaces, disputes between landlords and tenants have become both frequent and complex. One of the most significant procedural tools available in such disputes is the temporary injunction, governed primarily by Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908. Temporary injunctions are intended to preserve the status quo and protect the rights of parties during the pendency of litigation. However, despite their equitable foundation, these remedies are increasingly being misused, particularly by tenants, as instruments of delay and litigation strategy.

This research undertakes a critical examination of the misuse of temporary injunctions in landlord–tenant disputes in India. It analyses the legal framework, judicial principles, patterns of abuse, and the impact of such misuse on property rights and judicial efficiency. The study also evaluates the effectiveness of existing safeguards and proposes reforms to strike a balance between protection of rights and prevention of abuse.

### **Background and Historical Development**

The concept of injunctions in Indian law originates from the principles of equity developed in English jurisprudence. Over time, these principles were codified in Indian procedural law through the Code of Civil Procedure, 1908 and supplemented by the Specific Relief Act, 1963. Traditionally, injunctions were seen as protective remedies aimed at preventing irreparable harm and ensuring justice.

Simultaneously, the evolution of rent control laws in India significantly altered the dynamics of landlord–tenant relations. Post-independence legislation such as various state rent control acts was enacted to protect tenants from arbitrary eviction and exploitation. While these laws served an important socio-economic purpose, they also created a highly tenant-favorable system. Over time, this imbalance, coupled with procedural delays, provided fertile ground for misuse of legal remedies, including temporary injunctions.

The introduction of the Model Tenancy Act, 2021 reflects an attempt to modernize tenancy law and create a more balanced framework. However, its limited adoption by states means that traditional issues continue to persist.

### **Need for the Study**

The misuse of temporary injunctions in landlord–tenant disputes has emerged as a serious concern in the Indian legal system. Tenants often obtain *ex parte* injunctions on weak or misleading grounds, thereby delaying eviction proceedings and continuing in possession of property for extended periods. This not only causes injustice to landlords but also contributes significantly to judicial backlog.

The need for this study arises from multiple factors. Firstly, there is a growing recognition by courts that interim relief mechanisms are being strategically exploited. Secondly, there exists a gap between legal principles and their practical application at the trial court level. Thirdly, the economic implications of such misuse, particularly in high-value urban properties, are substantial. Lastly, there is a lack of comprehensive academic analysis focusing specifically on injunction misuse in tenancy disputes.

### **Legal Framework and Principles**

The legal framework governing temporary injunctions in India is primarily derived from the Code of Civil Procedure, 1908 and the Specific Relief Act, 1963. Courts grant temporary injunctions based on three essential conditions: the existence of a *prima facie* case, balance of convenience, and likelihood of irreparable injury.

A *prima facie* case requires the applicant to establish a credible and arguable claim. The balance of convenience involves comparing the relative hardship likely to be caused to both parties. Irreparable injury refers to harm that cannot be adequately compensated by monetary damages. In landlord–tenant disputes, these principles are often applied in complex factual scenarios involving issues such as eviction, non-payment of rent, subletting, and lease termination. While

the principles themselves are well-settled, their application is frequently inconsistent, leading to the grant of injunctions even in cases lacking genuine merit.

### **Patterns and Forms of Misuse**

The study identifies several recurring patterns of misuse of temporary injunctions in landlord–tenant disputes. One of the most common forms is the use of injunctions as delay tactics in eviction proceedings. Tenants often file multiple applications at different stages of litigation to prolong their occupation of the premises.

Another significant form of misuse involves obtaining ex parte injunctions by suppressing material facts or presenting misleading information. Since courts initially rely on one-sided affidavits, such practices can result in unjust interim orders.

Forum shopping is also a prevalent issue, where litigants approach different courts to obtain favourable injunctions. Additionally, frivolous and vexatious claims are frequently filed with the sole intention of harassing landlords or compelling them into unfair settlements.

The misuse is not limited to tenants alone; in certain cases, landlords also misuse injunctions to harass tenants or exert undue pressure. However, the dominant pattern observed is tenant-driven abuse aimed at delaying eviction.

### **Impact on Landlords and Judicial System**

The consequences of injunction misuse are far-reaching. For landlords, prolonged litigation results in loss of rental income, deprivation of property rights, and financial and emotional stress. In many cases, landlords are unable to reclaim possession of their property for years, despite having valid legal claims.

At a systemic level, the misuse contributes significantly to judicial delays and backlog. Courts are burdened with repetitive and frivolous applications, which consume valuable judicial time and resources. This undermines the efficiency and credibility of the justice delivery system.

Furthermore, the broader economic impact includes a reduction in the supply of rental housing, as landlords become reluctant to let out their properties due to litigation risks. This adversely affects the rental market and ultimately harms tenants as well.

### **Judicial Response and Safeguards**

The judiciary has increasingly recognised the problem of injunction misuse and has taken steps to address it. The Supreme Court and various High Courts have emphasised the need for strict

adherence to the principles governing injunctions and have cautioned against routine grant of ex parte orders.

Courts have also advocated the imposition of realistic and punitive costs on parties who misuse the legal process. The requirement of undertakings as to damages and the use of conditional injunctions are additional safeguards aimed at preventing abuse.

Procedural reforms, including amendments to the Code of Civil Procedure and the introduction of case management techniques, have also been implemented to reduce delays. The Model Tenancy Act, 2021 proposes time-bound dispute resolution mechanisms, which, if effectively implemented, could significantly curb misuse.

Despite these efforts, challenges remain in ensuring consistent application of safeguards, particularly at the trial court level.

### **Implementation Challenges**

The persistence of injunction misuse highlights several systemic challenges. The heavy workload of courts limits their ability to scrutinise applications thoroughly. Information asymmetry in ex parte proceedings makes it difficult for courts to detect misrepresentation at an early stage.

Additionally, the lack of strict enforcement of penalties for misuse reduces the deterrent effect of existing provisions. Legal complexity and multiplicity of laws further contribute to confusion and exploitation.

Another critical issue is the limited awareness among litigants about their rights and remedies, which often leads to reliance on litigation strategies that prioritise delay over resolution.

### **Conclusion**

The misuse of temporary injunctions in landlord–tenant disputes represents a significant challenge to the fairness and efficiency of the Indian legal system. While the legal principles governing injunctions are well-established, their practical implementation is often flawed, allowing scope for abuse.

The study concludes that addressing this issue requires a multi-faceted approach involving stricter judicial scrutiny, effective imposition of costs, procedural reforms, and increased legal awareness. There is also a need for greater consistency in judicial decision-making and better enforcement of safeguards.

Ultimately, the objective should be to preserve the legitimate protective function of temporary

injunctions while preventing their transformation into tools of delay and injustice. Achieving this balance is essential for ensuring equitable landlord–tenant relations and strengthening the integrity of the legal system.

## **BIBLIOGRAPHY**

### Books

1. Mulla on the Code of Civil Procedure, LexisNexis Butterworths, Latest Edition.
2. C.K. Thakker – Code of Civil Procedure, Eastern Book Company, Latest Edition.
3. V.N. Shukla – Constitution of India, Eastern Book Company, Latest Edition.

### Statutes

1. Code of Civil Procedure, 1908
2. Transfer of Property Act, 1882
3. Specific Relief Act, 1963
4. Indian Contract Act, 1872

### Case Laws

1. Dalpat Kumar v. Prahlad Singh (1993)
2. Ramrameshwari Devi v. Nirmala Devi (2011)
3. Kishore Kumar Khaitan v. Praveen Kumar Singh (2006)

### Journals & Articles

1. Articles from Indian Law Institute Journal.
2. Publications in Journal of Indian Law and Society.
3. Research papers from NUJS Law Review.
4. Articles published in SCC Online Legal Database.

## **WEBLIOGRAPHY**

1. SCC Online – <https://www.sconline.com>
2. Manupatra – <https://www.manupatra.com>
3. Indian Kanoon – <https://indiankanoon.org>
4. LiveLaw – <https://www.livelaw.in>