



Civil Law CPC

Difference Between Stay Order And Injunction Order

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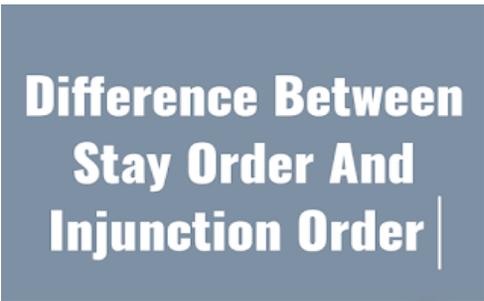
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Difference Between Stay Order And Injunction Order



Stay Order

(Order 21, Rule 26; Order 41, Rule 5 the CPC, 1908)

A stay order means to temporarily suspend the execution of a court judgment or order. A stay is a suspension of a case or a suspension of a particular proceeding within a case.

Stay order refers to stoppage, arrest or suspension of judicial proceedings. An order of stay is primarily passed against the execution of a decree. It is made against the execution of a decree to enables the judgment-debtor to appeal to an appellate court against such a decree. Such an order excludes commencement of any proceeding for execution of the said decree.

Stay order may also be made against a sale (Order 21, Rule 59), in a suit against a corporation (Order 30) ,in a suit involving a minor (Order 32) , inter-pleader suits (Order 35) , summary suits (Order 37) in case of reference to a High Court (Order 46) . The proceedings of stay order is available to the Civil Courts as well as to the Supreme Court and the High Courts.

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Injunction Order

(Order 39 of CPC 1908)

An injunction is a remedy in the form of a court order that compels a party to do or refrain from certain acts. A party that fails to obey an injunction faces criminal or civil penalties, including possible budgetary sanctions and even imprisonment. They can also be charged with contempt of the court. Injections are of different types;

1. Temporary injections which is granted during the pendency of the suit based on various factors like preservation of status quo, balance of convenience, a prima facie case, irreparable injury, etc.
2. Permanent injections permanently prohibits or mandates a person to do certain actions
3. Preventive is the one that restrain actions
4. Mandatory is the one that compel actions.
5. Ad-interim is the one granted during pendency of application and operative till its disposal.
6. Interim is the ones that are granted at disposal of application and operative till disposal of the suit.

Main Differences between injunction order and stay order are as follows:

Proceedings taken in violation of a stay order are void where those against an injunction are not null and void but subject to punishment.

Injunction operates as soon as it is issued but a stay order come to exist only when it is communicated to the court to which it is issued .

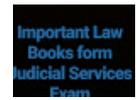
An order of stay of proceedings is available to the Civil Courts as well as to the Supreme Court and the High Courts

An order of stay of proceedings may also be made against a sale, in a suit against a corporation, in a suit involving a minor , interpleader suits , summary suits , in case of reference to a High Court

An order of stay operates against a court while an injunction is applicable against a person.

Case Law

1. **Mulraj v. Murti Raghonathji Maharaj, 1967**
2. **Basant Lal And Anr. vs Lakshmi Chand on 1 September, 2006**



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