
Inherent Powers of Civil Court to do
Justice

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In this Article I am dealing with the inherent powers of the civil Courts to do justice. The Courts existed even when there was no written statute on the fundamental principle to do justice and to amicably settle the matter. The Courts exist to even today and it has natural power inherited in it by virtue of its duty to do justice between the parties.

Section 151 of the Code of Civil Procedure (CPC) provides for the saving of the inherent powers of the Court in order to meet the “ends of justice” or to avoid the “abuse of the process of the Court”. However, neither of these phrases has been defined in the CPC. In order to find their meaning we need to look into the various case laws.

The scope of the section 151 is frequently misunderstood and various applications before the civil Courts are made under this section which does not properly fall within its purview.

Section 151 of the Code of Civil Procedure (CPC) provides “Nothing in this Code shall be deemed to limit or otherwise affect the inherent power of the Court to make such orders as may be necessary for the ends of justice, or to prevent abuse of the process of Court”.

Scope

The inherent powers of the Court are very wide and are not in any way controlled by the provisions of the code. They are in addition to the powers specifically conferred on the Court by the code and the Courts are free to exercise them. The only limitation put on the exercise of the inherent power is that when exercised they are not in conflict with what

has been expressly provided for, or those exhaustively covering a particular topic, or against the intention of the legislature. Inherent powers are to be exercised where specific provision does not meet the necessities of the case¹.

Court will not exercise power if it is inconsistent with the powers expressly or impliedly conferred by other provisions of Code. Court has an undoubted power to make a suitable order to prevent the abuse of the process of the Court². Inherent power cannot be exercised when such exercise comes in conflict with expressed provisions of the code or against the intentions of the legislature³.

Inherent power of the Court cannot override the express provisions of the law. In other words, if there are specific provisions of the Code dealing with a particular topic and they expressly or by necessary implication exhaust the scope of the powers of the Court or the jurisdiction that may be exercised in relation to a matter the inherent power of the Court cannot be invoked in order to cut across the powers conferred by the code. The prohibition contained in the code need to be express but may be implied or be implicit form the very nature of the provisions that it makes for covering the contingencies to which relates⁴.

Section 151 is intended to supplement the other provisions of C.P.C and not to evade or ignore them or to invent a new procedure⁵. Power has to be exercised by the Court in very exceptional circumstances for which code lays down no procedure⁶.

The Court have power in the absence of any express or implied prohibition to pass an order as may be necessary for the ends of justice or to prevent the abuse of the process of the Court⁷. Power can be utilised when specific provisions do not exist, if provisions prescribe a bar or a prohibition that cannot be overcome by resort to section 151 of C.P.C⁸.

The Apex Court has held, Rules of procedure are handmaids of justice. Section 151 of the C.P.C gives inherent powers to the Court to do justice. That provision has to be interpreted to mean that every procedure is permitted to the Court for doing justice unless expressly prohibited and not that every procedure is prohibited unless expressly permitted⁹. In the said case, Apex Court held that there is no express bar in filing an application for withdrawal of the withdrawal application.

I have outlined below the principle governing section 151, which provides for the inherent powers of the Court, from various case laws.

Principle

The Principles which regulate the exercise of inherent powers by a Court have been highlighted in many cases. In the matters with which the C.P.C does not deal with, the Court will exercise its inherent power to do justice between the party which is warranted under the circumstances and which the necessities of the case require. If there are specific provision of the C.P.C dealing with the particular topic and they expressly or by necessary implication exhaust the scope of the powers of the Court or the

jurisdiction that may be exercised in relation to a matter, the inherent powers of the Court cannot be invoked¹⁰.

The section confers on the Court power of making such orders as may be necessary for the ends of justice of the Court. The Power can be invoked to supplement the provisions of the code and not to override or evade other express provisions.

End Notes:

1. Bajrang V Ismail; AIR 1978 Pat 339, 347 (FB) and Braj Kishore V Rekha AIR 1992 Pat 173.
2. Ram Chand and Sons Sugar Mills V Kanhayalal; AIR 1966 SC 1899
3. Manoharlal V Seth Hiralal; AIR 1962 SC 527
4. Arjun Singh V Mohindra Kumar; AIR 1964 SC 993
5. Bhoj Raj V Darsu; AIR 1959 MP 52
6. Ramkarandas V Bhagwandas; AIR 1965 SC 1144
7. M/s Jaipur Mineral Development Syndicate V The Commissioner of I.T; AIR 1977 SC 1348
8. Girijamma V B.S Mancikyam; 1997 Kar.L.J 730
9. Rajendra Prasad Gupta V Prakash Chandra Mishra & Ors.; 2011 AIR SCW 1318
10. Nandi, civil referencer

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