

# [Rule damaged or alienated by any party to](https://assignbuster.com/rule-damaged-or-alienated-by-any-party-to/)

Rule 1 of Order 39 of the Code provides that where in any suit it is proved by affidavit or otherwise— (a) That any property in dispute in a suit is in danger of being wasted, damaged or alienated by any party to the suit, or wrongfully sold in execution of a decree, or (b) That the defendant threatens, or intends to remove or dispose of his property with a view to defrauding his creditors, or (c) That the defendant threatens to dispossess the plaintiff or otherwise cause injury to the plaintiff in relation to any property in dispute, the court may by order grant a temporary injunction to restrain such act, or make such other order for the purpose of staying and preventing the wasting, damaging, alienation, sale, removal or disposition of the property or dispossession of the plaintiff, or otherwise causing injury to the plaintiff in relation to any property in dispute in the suit as the court thinks fit, until the disposal of the suit or until further orders. The power of granting a temporary injunction is discretionary with the court.

The direction has to be judicially exercised on certain legal principles. The temporary injunction should not be lightly granted, because it would be a serious thing if persons in possession were to be restrained from using the property merely because a suit had been instituted with reference to it. The court has to be satisfied with regard to the following matters: 1. The court will first see that there is a bona fide contention between the parties, and then on which side, in the event of success, will state balance of inconvenience if the injunction does not issue. 2. The court must be satisfied that the applicant has a prima facie case to go to trial, i.

e., there is a probability of the plaintiff getting the relief asked for by him. 3.

The court must be satisfied that there is a likelihood of the plaintiff suffering from an irreparable injury—an injury which could not be adequately remedied by damages if the injunction is not granted. 4. Where permanent injunction cannot be given generally no temporary injunction is allowed.