**SUIT BY PRINCIPAL AGAINST AGENT FOR MISCONDUCT / NEGLIGENCE**

Nature of grievance:

Suits by principals against agents: Where an “Agent” misconducts or neglects in his duties towards the “Principal” – A Suit may be filed for the rendition of Accounts, within 3 years from the date, when the principal becomes aware of the alleged misconduct or neglect of the “Agent”, under Article 4 of the Indian Limitation Act, 1963.

Reliefs prayed:

(As may be appropriate and applicable to the facts of one’s case)

a)     That the Defendant be ordered and decreed to render true and correct Account, for being an Agent of the Plaintiffs, for the years \_\_\_\_\_\_;

b)     That the Defendant be further ordered and decreed to pay such sum, as may be found due from him, on taking of such Accounts;

c)     That the Defendant be further ordered and decreed to pay interest on the said aforesaid sum, as may be assessed.

d)     The Hon’ble Court be pleased to declare that \_\_\_\_\_\_\_\_\_\_\_  (declaration, in the absence of which the rights of the Plaintiff is frustrated);

e)     The Defendants be permanently injuncted from acting (permanently restrained from doing of certain acts), such acts which would otherwise frustrate the rights of the Plaintiffs, or such acts, which would otherwise run contrary to the rights of the plaintiff.

f)      The Defendants be ordered and decreed by way of Mandatory Injunction to \_\_\_\_\_\_\_\_\_\_ “perform certain acts”;

Interim and Ad-Interim Reliefs: Pending the hearing and final disposal of the Suit, the Hon’ble Court so as to prevent the ends of justice from being defeated, be pleased –

g)     That pending the hearing and final disposal of the above suit, the Hon’ble Court, in the dues exercise of powers u/s 94 and O.38 of CPC, 1908, Issue a warrant to arrest the defendant and bring him before the Court to show cause why he should not give security for his appearance, and if he fails to comply with any order for security commit him to the civil prison (as may be applicable to the facts of the case);

h)     That pending the hearing and final disposal of the above suit, the Hon’ble Court, in the dues exercise of powers u/s 94 and O.38 of CPC, 1908, Direct the defendant to furnish security to produce any property belonging to him and to place the same at the disposal of the Court or order the attachment of any property; (as may be applicable to the facts of the case)

i)       That pending the hearing and final disposal of the above suit, the Hon’ble Court, in the dues exercise of powers u/s 75 and O.26 of CPC, 1908, be pleased to appoint Court Commissioner, so as to carry out examination of Accounts of the Defendants for the years \_\_\_\_\_\_, and file Report before this Hon’ble Court;

j)       That pending the hearing and final disposal of the above suit, the Hon’ble Court, in the dues exercise of powers u/s 75 and O.26 of CPC, 1908, be pleased to appoint Court Commissioner, to hold a scientific, technical, or expert investigation; or to conduct sale of property which is subject to speedy and natural decay and which is in the custody of the Court pending the determination of the suit; or to perform any other ministerial act.

k)     Interim/ad-interim reliefs in terms of prayer clauses \_\_\_\_\_\_ as aforesaid.

l)       Such further and other reliefs as this Hon’ble Court may deem fit and proper in the circumstances of the case as may be necessary.

Material facts of the case:

The Plaintiffs, most respectfully submit that, having regard to the nature of reliefs prayed for in this Suit, the following facts become germane to the controversy herein; And, the reasonable satisfaction of the existence or the non existence, as the case may be, of these facts, may entitle the Plaintiffs the judgment in their favour. The chronology / chain of events, which has led to the present situation, and has constrained the Plaintiffs to seek certain Reliefs from this Hon’ble Court. [In the chronology / chain of events, the following facts should be set out in clear terms, at appropriate juncture.]

1.      The facts showing the existence / subsistence of the Principal / Agent relationship:

2.      The facts showing the ceasing of the Principal / Agent relationship, if it is so:

3.      The incident of cessation of Agency:

(a)       where an agency is terminated by the principal revoking his authority;

(b)       by the agent renouncing the business of the agency;

(c)       by the business of the agency being completed;

(d)       by either the principal or agent dying or becoming of unsound mind;

(e)       by the principal being adjudicated an insolvent under the provisions of any Act for the time being in force for the relief of insolvent debtors.

4.      The Notice, if any, given by the Principal before terminating Agency:

5.      The facts showing that the Agent has misconducted or neglected in his duties towards the Principal:

6.      The facts showing that due to aforesaid misconduct / negligence, the Plaintiffs have suffered pecuniary and / or other losses:

7.      The facts showing that the Plaintiffs took all possible steps to mitigate / minimize the losses which has occasioned due to the aforesaid misconduct / negligence of Defendant:

 [To claim any relief in the nature of declaration] The facts showing that the Plaintiff is entitled to some legal position, or to some property, or to some right of any nature whatsoever; and the facts and circumstances showing that the Defendant is doing some act by which the Defendant deny such rights of the Plaintiffs;

[To claim any relief in the nature of permanent injunction] The facts showing that the Plaintiff is entitled to some legal position, or to some property, or to some right of any nature whatsoever; and the facts and circumstances showing that the Defendant is doing some act by which the Defendant interferes with such rights of the Plaintiffs;

[To claim any relief in the nature of mandatory injunction] The facts showing that the Defendant is under obligation under the law or under the contract, to perform certain acts, which he is neglecting to do, and the Courts can compel performance of such acts, and the performance of such acts are essential pending the final disposal of the Suit, and the failure of performance of such acts may render the Suit infructuous.

In Money Claim Suits, to claim interim relief, “of arrest of the Defendant to cause him to furnish security for his appearance, pending the disposal of the Suit”, any one of the facts must be shown to have exist –

Facts and circumstances showing that, with intent to delay the plaintiffs, or to avoid any process of the Court or to obstruct or delay the execution of any decree which may be passed against him, the defendant, has absconded or left the local limits of the jurisdiction of the Court,

or

Facts and circumstances showing that, with intent to delay the plaintiffs, or to avoid any process of the Court or to obstruct or delay the execution of any decree which may be passed against him, the defendant is about to abscond or leave the local limits of the jurisdiction of the Court,

or

Facts and circumstances showing that, with intent to delay the plaintiffs, or to avoid any process of the Court or to obstruct or delay the execution of any decree which may be passed against him, the defendant has disposed of or removed from the local limits of the jurisdiction of the Court his property or any part thereof,

or

Facts and circumstances showing that, with intent to delay the plaintiffs, or to avoid any process of the Court or to obstruct or delay the execution of any decree which may be passed against him, the defendant is about to leave India under circumstances affording reasonable probability that the plaintiff will or may thereby be obstructed or delayed in the execution of any decree which may be passed against the defendant in the suit.

In Money Claim Suits, to claim interim relief of “directing the Defendant to furnish security of certain sum of money, either by furnishing the bank guarantee or by depositing the said sum of money in the Court”, or to effect the conditional attachment of his immovable property, pending the disposal of the Suit”, any one of the facts must be shown to have existed.

Facts and circumstances showing that, with intent to obstruct or delay the execution of any decree which may be passed against him, the defendant is about to dispose of the whole or any part of his property;

or

Facts and circumstances showing that, with intent to obstruct or delay the execution of any decree which may be passed against him, the defendant is about to remove the whole or any part of his property from the local limits of the jurisdiction of the Court;