**SUIT FOR COMPENSATION FOR TRESPASS UPON IMMOVABLE PROPERTY**

Nature of grievance:

***Suit for compensation for trespass upon immovable property:***

Where a person has committed a trespass upon an immovable property – A Suit may be filed for the compensation, within three years from the date of the trespass, under Article 87 of the Indian Limitation Act, 1963. As long as the person remains in the unlawful occupation of the property, a fresh cause of action arises every day on his said unlawful occupation. The period of three years, which is contemplated herein, starts when the trespass actually ceases, by the operation of law or otherwise.

Reliefs prayed:

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

a)     The Defendant be ordered and decreed to pay Rs.\_\_\_\_\_\_, as per the particulars of Claim annexed to the Plaint at Exhibit “\_\_\_”;

a)     The Defendant be further ordered and decreed to pay interest on the said compensation amount @12% from the date of filing of Suit, till date of judgment; and further interest @6% from the date of judgment till payment;

b)     That the defendant be permanently injuncted / restrained from interfering with the rights of the Plaintiffs;

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

Interim and Ad-Interim Reliefs in respect of Suits involving Immovable property: 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 –

d)     The Defendants be ordered and decreed to pay mesne profits, and for that purpose, the Hon’ble Court be pleased to appoint Court Commissioner or any other fit person, to inquire about the mesne profits which the defendants might have received by and from the use of the Suit property, from the date of the occupation of the Suit property till the date of cessation of trespass;

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

f)      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 that the Plaintiffs is / was fully entitled to and have / had full right, title and interest in respect of the Suit property set out at Exhibit “\_\_\_” to the Plaint:

2.      The facts showing that the Defendant, by using physical force or otherwise illegally, had dispossessed the Plaintiffs from the Suit property, and occupied the Suit property:

3.      The facts showing that the Defendant had no right / title / interest of whatsoever nature in the Suit property, so as to remain in the occupation of the Suit property:

4.      The fact showing that trespass has ceased by operation of law or otherwise:

[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.

If mesne profits is claimed pending the final disposal of the Suit, and an interim Relief is asked for the appointment of Court Commissioner to carry out local investigation of the Suit property, then facts showing that such investigation, etc. is just and necessary to ascertain mesne profits.