**SUIT FOR SPECIFIC MOVABLE PROPERTY LOST OR ACQUIRED BY THEFT OR MISAPPROPRIATION ETC.**

Nature of grievance:

***Suit for specific movable property lost, or acquired by theft, or dishonest misappropriation or conversion:***

Suit for compensation for wrongfully taking or detaining any specific movable property lost, or acquired by theft, or dishonest misappropriation or conversion: Where any specific movable property is lost or stolen, and afterwards it was learnt that any person is in the possession of the said specific movable property, but where the said person unlawfully refuses to deliver the said property, or where the concerned person dishonestly misappropriate or converts the said property – A Suit may be filed for the possession of said specific movable property, within 3 years from the date when the person entitled to the possession of the said property, for the first time learnt that in whose possession the concerned property is, under Article 68 of the Indian Limitation Act, 1963; or A Suit may be filed for the compensation, within 3 years from the date when the person entitled to the possession of the said property, for the first time learnt that in whose possession the concerned property is, under Article 91(a) of the Indian Limitation Act, 1963.

Suit for compensation for wrongfully taking or injuring or wrongfully detaining any other specific movable property: Where any person, unlawfully, detains any specific movable property, or unlawfully causes injury to a specific movable property, or unlawfully takes any specific movable property – A Suit may be filed for compensation, within 3 years from the date, when the property concerned was unlawfully taken or injured or when the possession of the detainer becomes unlawful, under Article 91(b) of the Indian Limitation Act, 1963.

Reliefs prayed:

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

a)     The Defendant be ordered and decreed to handover possession of Suit property;

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

c)     That the Defendant be further ordered and decreed to pay interest on the Suit amount, @12% from the date of filing of Suit, till date of judgment; and further interest @6% from the date of judgment till payment.

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 to pay mesne profits from the date occupation of the Suit property till the date of institution of the Suit;

g)     The Defendants be further ordered and decreed to pay mesne profits from the date of institution of the Suit till the handing over of the possession of the Suit property;

h)     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 –

i)       This Hon’ble Court by its Order and Injunction be pleased to restrain the Defendant, their servants, agents or anybody acting through Defendant from dealing with, disposing off, alienating, encumbering, parting with possession or creating third party rights, of any nature whatsoever, in respect of the suit property, more particularly described in the Schedule of properties being Exhibit “\_\_\_” hereto.

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, so as to carry out local investigation of the Suit property described in the Schedule of properties being Exhibit “\_\_” hereto, (for the purpose of elucidating any matter in dispute, or of ascertaining the market-value of any property, or the amount of any mesne profits or damages or annual net profits (as may be applicable), with all the powers under of the Code of Civil Procedure, and file Report before this Hon’ble Court;

k)     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.

a)     The Defendants be ordered and decreed to pay mesne profits from the date of the institution of the Suit, until the delivery of possession of the Suit property, 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 institution of the Suit until delivery of possession of the Suit property; and after inquiry being concluded, be pleased to order and decree the defendants to deposit the accrued amount in the Court; with the further direction to deposit mesne profits for every month, from the date of the decree in respect of mesne profits till the delivery of possession of Suit property,

l)       That pending the hearing and final disposal of the above suit, 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 institution of the Suit; and after inquiry being concluded, be pleased to order and decree the defendants to deposit the said accrued amount in the Court; with the further direction to deposit mesne profits for every month, from the date of the institution of the Suit, till the date of the decree, with such escalation in mesne profits as the Suit property might fetch in the ordinary course;

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

n)     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.]

As may be applicable to the facts of the case

1.      The facts showing that the Plaintiff is entitled for a specific movable property, valuable or otherwise:

2.      The facts showing that the said movable property was lost or stolen, and afterwards it was learnt that the Defendant is in the possession of the said specific movable property:

3.      The facts showing that the Plaintiffs called upon the Defendants to handover the possession of said specific movable property:

4.      The facts showing that the Defendants have without lawful excuse or have without any reasons, refuse to deliver the said property:

5.      Or the facts showing that the Defendant have dishonestly misappropriated the said movable property or have converted the said movable property into other movable property:

6.      The facts showing that the Defendants unlawfully detains the said specific movable property,

7.      The facts showing that the Defendants have unlawfully caused injury to the said specific movable property:

8.      Or the facts showing that the Defendants have unlawfully taken away the said specific movable property:

So as to claim Relief in the nature of staying and preventing the wasting, damaging, alienation, sale, removal or disposition of the Suit property, or to prevent dispossession of the plaintiff, or otherwise to prevent causing injury to the plaintiff in relation to the Suit property, and to seek appointment of the Receiver upon the Suit property, the applicable facts must be shown to exist, that is –

9.      Facts and circumstances showing that the (i) Suit property is in danger of being wasted, damaged or alienated by the Defendant; or that (ii) the Suit property is wrongfully being sold in execution of a decree; or that (iii) the defendant threatens, or intends to remove or dispose of his property with a view to defrauding his creditors; or that (iv) the defendant threatens to dispossess the plaintiff or (v) the defendant otherwise would cause injury to the plaintiff in relation to the Suit property.

[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.

If an interim Relief is asked for the appointment of Court Commissioner, to hold a scientific, technical, or expert investigation; or to conduct sale of property, etc. then facts showing that such investigation, etc. is just and necessary for the complete disposal of the Suit.