**SUIT TO RECOVER POSSESSION OF IMMOVABLE PROP. OF TRUST TRANSFERRED BY THE TRUSTEE**

Nature of grievance:

***Suit to recover possession of immovable property conveyed or bequeathed in trust and afterwards transferred by the trustee for a valuable consideration:***

Where an immovable Property, which is conveyed or bequeathed to a Trust, is transferred by the trustee for a valuable consideration, the possession of the said Property may be recovered, when the transfer becomes known to the plaintiff, by filing Suit under Article 92, within 12 years, from the date of knowledge of the Plaintiff of such transfer.

or

Suit to recover possession of movable property conveyed or bequeathed in trust and afterwards transferred by the trustee for a valuable consideration: Where a movable Property, which is conveyed or bequeathed to a Trust, is transferred by the trustee for a valuable consideration, the possession of the said movable Property may be recovered, when the transfer becomes known to the plaintiff, by filing Suit under Article 93, within 3 years, from the date of knowledge of the Plaintiff of such transfer.

Reliefs prayed:

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

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

b)     The Hon’ble Court be pleased to declare that Plaintiffs are entitled to the Suit property to the extent of the interest (which is asserted and claimed in the Suit);

c)     That the defendant be ordered and decreed to handover vacant and peaceful possession of the Suit property (Immovable), specified in the schedule hereunto annexed at Exhibit \_\_\_ to the Plaint;

d)     That the defendant be ordered and decreed to handover possession of the Suit property (Movable), specified in the schedule hereunto annexed at Exhibit \_\_\_ to the Plaint;

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”;

g)     The Defendants be ordered and decreed to pay mesne profits from the date of occupation of the Suit property, till the date of institution of the Suit;

h)     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;

**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, that this Hon’ble Court be pleased to appoint Court Receiver, High Court, \_\_\_\_\_\_ or some other fit and proper person as Receiver in respect of the suit properties as more particularly described in the Schedule of properties being Exhibit “\_\_” hereto with all the powers under Order 40 Rule 1 of the Code of Civil Procedure, including the power to sell the suit property.

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, 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;

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

m)   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 Suit property is a Property, which was conveyed or bequeathed to a Trust:

2.      The facts showing that the Suit property was transferred by the Trustees of the said Trust:

3.      The facts showing that the Suit property was transferred for a valuable consideration:

4.      The facts showing that the said transfer was otherwise illegal and was against the interest of the said Trust:

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 –

**5.**      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.