

## SC's Stand on Stay Order

### Why in news?

The Supreme Court has recently issued guidelines concerning interim orders of stay in High Court.

### What is an interim order?

- **Temporary relief**- Interim orders are temporary in nature and only provide immediate relief.
- **Benefits**-It is intended to address immediate concerns, maintain the status quo, or prevent irreparable harm until a final judgment can be rendered.

| Types of interim order  | About   |
|---|---|
| Attachment before judgment  | Securing assets before a final judgment                                 |
| Appointment of a receiver   | Designating a neutral party to manage disputed property                 |
| Commission to examine witnesses   | Authorizing the examination of witnesses before trial.                  |
| Interim custody, visitation rights, and maintenance in matrimonial disputes | Addressing family law matters during litigation.                        |
| Stay orders   | Temporarily halt legal proceedings to secure the rights of the citizen. |

- These reliefs are designed to address urgent situations and ensure that justice is done while the case is ongoing.
- **Delays trial procedure**- If a High Court in a case had to consider the challenge against an order framing charges by the trial court, it would first grant a stay of trial and then grant a date for hearing arguments on framing charges.

### What are the guidelines issued by Supreme Court for interim relief?

- **Limited duration**- Ex-parte ad-interim relief should be granted for a specific period.

*Ex-parte ad-interim relief is granting interim order without hearing the affected parties*

- **Hear both sides**-High courts should hear both parties before granting or vacating interim relief.
- **Vacation of interim orders**-Even if interim relief is granted after hearing both sides, the aggrieved party is not prevented from applying for vacating the same on available grounds.
- **Priority for vacating orders**-Applications for vacating stay orders should be given

priority.

- **Ensure transparency-** If a party applies for vacating an interim order due to suppression of facts, it should be taken up promptly to prevent the misuse of interim relief.
- **Reversal of Asian resurfacing case, 2018-** The 2018 ruling mandated that interim orders automatically expire after 6 months unless extended by the high courts.
- The direction for the automatic expiration of interim orders cannot be issued under Article 142 of the Constitution.

*Article 142 empowers the Supreme Court of India with a discretionary power to pass any such order that it deems as 'necessary for complete justice', in any matter pending before it.*

### Grounds for vacating the interim relief

The High Courts are empowered to vacate or modify an order of interim relief passed after hearing the parties based on various grounds

- **Deliberate prolongation-** If a litigant seeks unwarranted adjournments or remains absent to take undue advantage of the order of stay.
- **Suppression or misrepresentation-** If the order of interim relief is granted due to suppression or misrepresentation of material facts.
- **Material change-** If there is a material change in circumstances requiring interference with the interim order.
- **Flexibility-** The listed grounds for vacating interim orders are not exhaustive, and there can be other valid grounds for vacating the interim relief.

### Why Supreme Court reversed 2018 judgement?

- **Need of the 2018 ruling-** The intention was to address the problem of undue delays in trials caused by stays.
- **Not achieve its goal-** The 2018 judgment did not achieve its goal of reducing case pendency in ensuring speedy disposal of matters.
- **Discretion for lower courts-** The Supreme Court should refrain from laying down precise timelines for deciding cases, as lower courts are more aware of grass root issue it must be given discretion in handling cases.
- **Caseload dynamics-** The Court acknowledged that different courts have varying patterns when it comes to their pending caseload, hence the concerned court is best positioned to determine which cases require immediate attention.
- **Prevent injustice-** It recognizes the need for flexibility and acknowledges that imposing precise timelines for deciding cases can sometimes lead to injustice.
- **Against separation of powers-** The power of deciding timelines for judicial proceedings is a decision for Parliament, the intervention of judiciary would amount to court created legislation.

### What lies ahead?

- The Supreme Court through the guidelines for interim relief aims to strike a balance between granting interim relief and ensuring fair and just legal process.

- The recent guidelines underscores the importance of allowing *lower courts flexibility* in managing cases, recognizing their awareness of local issues.

## Reference

[Indian Express- SC decision on 2018 stay interim orders](#)

