

**ORDER BELOW INJUNCTION APPLICATION IN**  
**R.C.S.NO.774/2024**

This is application filed by the plaintiff against defendants under provisions of Order XXXIX Rule 1 and 2 of Code of Civil Procedure, 1908.

2) Heard the learned Adv. Shri. Jagalpure for the plaintiff. Perused the record of the case and documents filed on record.

3) I have carefully canvassed the contentions raised by the learned Adv. for plaintiff. At this stage it is relevant to note landmark judgment of Hon'ble Apex Court in case of **Morgan Stanley Mutual Fund vs Kartick Das : 1994 SCC (4) 225**, wherein guidelines are given that ex-parte injunction could be granted only under exceptional circumstances. The factors which should weigh with the court in the grant of ex-parte injunction are -

(a) whether irreparable or serious mischief will ensue to the plaintiff;

(b) whether the refusal of ex parte injunction would involve greater injustice than the grant of it would involve;

(c) the court will also consider the time at which the plaintiff first had notice of the act complained so that the making of improper order against a party in his absence is prevented;

(d) the court will consider whether the plaintiff had acquiesced for sometime and in such circumstances it will not grant ex parte injunction;

(e) the court would expect a party applying for ex parte injunction to show utmost good faith in making the application.

(f) even if granted, the ex parte injunction would be for a limited period of time.

(g) General principles like prima facie case balance of convenience and irreparable loss would also be considered by the court.

4) It is settle principle of law that ex-parte injunction is to be granted only in exceptional circumstances. In the present scenario plaintiff has not made out case for grant of ex-parte injunction. Hence, before granting injunction it would be just and proper to issue notice to defendants. Hence, as result of above discussion, I proceed to pass the following order:

**ORDER**

1. Issue show cause notice of this application as to why interim injunction as prayed should not be granted to the plaintiff returnable on next date.
2. E.P.S.B is allowed if any prayed.

Date:- 18/11/2024  
Place:-Udgir

Sd/-  
(K.A.Powar)  
2<sup>nd</sup> Jt. C.J.J.D.,Udgir