

Quadrant II – Notes

Paper Code: LAB0419

Module Name: Garnishee Order

The term Garnishee is derived from the Latin word Garnir which means to warn the third party. This is a situation wherein debtor is not repaying the money which he owes to creditor. Creditor file a suit for recovery of money. creditor request the Court to issue an order so as to attach debtor's property which is in the hand of third party.

creditor is requesting the Court to issue an order to attach debtor's property which is in the hand of third party. It is applicable to the banker under order 21, Rule 46 of Civil Procedure Code.

parties to Garnishee Order; judgment debtor, judgment and Garnishee. Judgment debtor is a person against whom the court issues a decree to pay money to his creditor. Judgment creditor is the person in whose favour the decree is issued. the banker to whom this order is directed to stop the operation of customer's account is called garnishee.

There are two kinds of order. Order nisi and Order absolute. Order nisi is also known as preliminary order. It is issued during the pendency of the suit. Order Absolute, final order issued by the Court to the banker to pay amount from the judgment debtor's account to the judgment creditor's account.

Effect of garnishee order; banker is justified in dishonouring the cheques of his customer and the bank is fully justified in their action and the customer cannot claim damages for dishonour.

Important aspect of garnishee order; The order clearly specifies the account which is attached to the order and only that particular account have to be attached. the order applies to debt due or accruing due. bankers claim to set off.

Serving of Garnishee order; It is served to the head office and the head office in turns serves to the branch. the banker is bound to follow the direction of the Court. It is applicable to saving bank account, current account, joint account, partnership firm account and finally on a trust account.