

Hello everyone, my name is Roshant Parwar and I am assistant professor in law at G. R Kare College of Law Margao-Goa. today I will discuss one of the topics under the subject of law of banking, which is one of the important subjects for B.A. LL.B. program under semester eight. The name of the topic is Garnishee Order.

First of all, let us look at the outline of the subject. Legislation governing law of banking, which is necessary legislation governing garnishee order under law of banking, parties to the order, kinds of order, effects of garnishee order, serving of garnishee order.

Learning outcomes will be the; students will be able to understand the law governing banking, understand the different parties to the order, the effect of garnishee order, understand the serving of garnishee order. legislations that govern banking sector in India are, the Negotiable Instrument Act, 1881. this is one of the oldest legislations in operation, Bankers Books Evidence Act 1891, We have the Reserve Bank of India Act 1934, The Banking Regulation Act 1949, Foreign Exchange management Act, 1999. Payment of Settlement System Act, 2007, The securitisation and reconstruction of financial assets and enforcement of security interest 2002. These are some of the important lists of legislations governing banking sector in India.

the topic for discussion is garnishee order. The term Garnishee is derived from the Latin word Garnir which means to warn the third party. this is a situation of your battery. This is a situation wherein debtor is not repaying the money which he owes to creditor. Creditor is left with only one option that is to file a suit for recovery of money. creditor request the Court to issue an order so as to attach debtor's property, which is the hand of third party. this is basically a situation where a debtor does not have a property in his hand. The property is there in the hand of the third party, so the creditor is requesting the Court to issue an order to attach debtor's property which is in the hand of third party. if a court issues this order, such an order is called garnishee order. It is applicable to the banker under order 21, Rule 46 of Civil Procedure Code.

following are the parties to Garnishee Order, judgment debtor. 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 decrees is issued. The decree is nothing but it is the judgment or it is order issued by the Court. the banker to whom this order is directed to stop the operation of customer's account is called garnishee.

for instance, you have an account in the bank and the court issues an order to that respected bank to stop the operation of such account, and when such order is implemented, that order is known as garnishee order. There are two kinds of order. Order nisi is also known as preliminary order. It is issued during the pendency of the trial. the payment over customers account to give explanation, bankers duty to inform the same to his customer.

Order Absolute, final order issued by the Court to the banker to pay amount in the judgment debtor's account to the judgment creditor.

Effect of garnishee order, first of all banker is justified in dishonouring the cheques of his customer. It means the person or a customer against whom such order is issued that person's cheque will be dishonoured and the bank is fully justified in their action and the customer cannot claim damages for dishonour.

Important aspect of garnishee order. now these are some of the important aspects of the garnishee order. The order clearly specifies the account which is attached to the order and only that particular account has to be attached or freeze, the order applies to debt due or accruing due. bankers claim to set off. It is not be

necessary that the whole account is blocked or freeze but only a particular amount from that account may be attached which is mentioned in garnishee order.

Serving of Garnishee order is the next thing that I am going to discuss. It is served to the head office and the head office in turns serves to the branch. It looks to be a lengthy procedure but if there is any delay here then that delay is justified. Court also sends copy of an order to the bank branch directly. Bank have followed the directions of the Court. It is important that the directions of the Court are more important than the direction given by the customer. the banker is bound to follow the direction of the Court.

application to different types of accounts. Now you should understand that this order is not only applicable to saving bank account but also on current bank accounts.it also applies to joint account; It may be a saving or a current account, a partnership firm account and finally on a trust account.as far as this trust account is concerned, trust is basically an artificial person created under the operation of law. And these are the references.

Thank you.