

Thought of the day

यकीन और उम्मीद
लक्ष्य को आसान नहीं
बल्कि “संभव” बनाते हैं।

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Today's Topic

Garnishee Order

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Garnishee Order

Garnishee Order: It is issued by a court, for recovery of dues of Judgement Creditor.

- ✓ Under section 60 of CPC 1908 as per order XXI, Rule 46
- ✓ Bank is Garnishee.
- ✓ Bank is Judgement debtor's debtor.
- ✓ Customer is Judgement Debtor.

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Garnishee Order

Court order involves two stages:

- ✓ Court instructs the bank to stop the payment in customer's account
- ✓ Court give the reason, why funds in the customer's account cannot be paid to the judgment creditor.
- ✓ It is known as "**Order nisi**"
- ✓ Court issues the final order called "**order absolute**" directing the bank to pay the entire or part of the balance amount to the 'judgment creditor' or to the Court.
- ✓ Bank is discharged from its liability to its customer, only after payment made as per '**order absolute**' received from the Court.

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Garnishee Order

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Bank actions:

- No obligation to pay cheques
- Stop Payment
- Amount is not mentioned in the order entire amount attached
- Reason of cheque return: Garnishee order has been received
- Joint accounts are not attachable
- Proprietor's account are considered one account
- Attaches all accounts of the judgement debtor (Credit Balance)

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Garnishee Order

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GO applicable:

- ✓ **Relationship:** (Debtor-Creditor) Deposit a/c
- ✓ **Capacity:** same capacity (Not joint a/c)
- ✓ Attach all account related JD
- ✓ FDR for a loan (Applicable on excess amount)
- ✓ Amount not withdrawn
- ✓ Order on HO (Not applicable foreign branch)
- ✓ Joint account (Same name in the GO)
- ✓ Partnership firms account

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Garnishee Order

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GO is not applicable:

- ✓ Specific amount, it is not applicable beyond the stated amount
- ✓ CC/OD account
- ✓ Cheque presented in clearing
- ✓ Deposit (amount) after order
- ✓ Name in the order is diff.

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Garnishee Order

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GO is not applicable:

- ✓ Joint accounts
- ✓ Insolvents
- ✓ Single partner
- ✓ Payment already done
- ✓ Assignment (amount)
- ✓ On the name of trustee (Trust a/c)
- ✓ Amount held by bank in other capacity
- ✓ Right of set-off

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