

-----  
**ORDER XXXVIII**

**ARREST AND ATTACHMENT BEFORE JUDGMENT**

**Arrest before Judgment**

1. Where a defendant may be called upon to furnish security for appearance.--Where at any stage of a suit, other than a suit of the nature referred to in Section 16, clauses (a) to (d), the Court is satisfied, by affidavit or otherwise,--

- (a) that the defendant, with intent to delay the plaintiff, or to avoid any process of the Court or to obstruct or delay the execution of any decree that may be passed against him,
  - (i) has absconded or left the local limits of the jurisdiction of the Court, or
  - (ii) is about to abscond or leave the local limits of the jurisdiction of the Court, or
  - (iii) has disposed of or removed from the limits of the jurisdiction of the Court' his property or any part thereof,  
or

(b) that the defendant is about to leave <sup>1</sup>[Pakistan] under circumstances affording reasonable probability that the plaintiff will or may thereby be obstructed or delayed in the execution of any decree that may be passed against the defendant in the suit,

the Court may issue a warrant to arrest the defendant and bring him before the Court to show cause why he should not furnish security for appearance:

Provided that the defendant shall not be arrested if he pays to the officer entrusted with the execution of the warrant any sum specified in the warrant as sufficient to satisfy the plaintiff's claim; and such sum shall be held in deposit by the Court until the suit is disposed of or until the further order of the Court.

### COMMENTS

**Execution Court.** The execution Court cannot go behind the decree. [1972 SCMR 237]. Six equal instalments of principal amount fixed by Court by consent of parties. Plaintiff at liberty to move Court for sale of property on decree becoming executable. [1990 CLC 1162].

**2. Security.--**(1) Where the defendant fails to show such cause the Court shall order him either to deposit in Court money or other property sufficient to answer the claim against him, or to furnish security for his appearance at any time when called upon while the suit is pending and until satisfaction of any decree that may be passed against him in the suit, or make such order as it thinks fit in regard to the sum which may have been paid by the defendant under the proviso to the last preceding rule.

(2) Every surety for the appearance of a defendant shall bind himself, in default of such appearance, to pay any sum of money which the defendant may be ordered to pay in the suit.

**3. Procedure on application by surety to be discharged.--**(1) A surety for the appearance of a defendant may at any time apply to the Court in which he became such surety to be discharged from his obligation.

(2) On such application being made, the Court shall summon the defendant to appear or, if it thinks fit, may issue a warrant for his arrest in the first instance.

(3) On the appearance of the defendant in pursuance of the summons or warrant, or on his voluntary surrender the Court shall direct the surety to be discharged from his obligation, and shall call upon the defendant to find fresh security.

4. Procedure where defendant fails to furnish security or find fresh security.--Where the defendant fails to comply with any order under Rule 2 or Rule 3, the Court may commit him to the civil prison until the decision of the suit or, where a decree is passed against the defendant, until the decree has been satisfied:

Provided that no person shall be detained in prison under this rule in any case for a longer period than six months, nor for a longer period than six weeks when the amount or value of the subject-matter of the suit does not exceed fifty rupees:

Provided also that no person shall be detained in prison under this rule after he has complied with such order.

**Attachment before Judgment**

5. Where a defendant may be called upon to furnish security for production of property.--(1) Where, at any stage of a suit, the Court is satisfied, by affidavit or otherwise, that the defendant, with intent to obstruct or delay the execution of any decree that may be passed against him--

- (a) is about to dispose of the whole or any part of his property, or
- (b) is about to remove the whole or any part of his property from the local limits of the jurisdiction of the Court,

the Court may direct the defendant, within a time to be fixed by it, either to furnish security, in such sum as may be specified in the order, to produce and place at the disposal of the Court, when required, the said property or the value of the same or such portion thereof as may be sufficient to satisfy the decree, or to appear and show cause why he should not furnish security.

(2) The plaintiff shall, unless the Court otherwise directs, specify the property required to be attached and the estimated value thereof.

(3) The Court may also in the order direct the conditional attachment of the whole or any portion of the property so specified.

6. Attachment where cause not shown or security not furnished.--(1) Where the defendant fails to show cause why he should not furnish security, or fails to furnish the security required, within the time fixed by the Court, the Court may order that the property specified, or such portion thereof as appears sufficient to satisfy any decree which may be passed in the suit, be attached.

(2) Where the defendant shows such cause or furnishes the required security, and the property specified or any portion of it has

been attached, the Court shall order the attachment to be withdrawn, or make such other order as it thinks fit.

**7. Mode of making attachment.**--Save as otherwise expressly provided, the attachment shall be made in the manner provided for the attachment of property in execution of a decree.

**8. Investigation of claim to property attached before judgment.**--Where any claim is preferred to property attached before judgment, such claim shall be investigated in the manner hereinbefore provided for the investigation of claims to property attached in execution of a decree for the payment of money.

**9. Removal of attachment when security furnished or suit dismissed.**--Where an order is made for attachment before judgment, the Court shall order the attachment to be withdrawn when the defendant furnishes the security required, together with security for the costs of the attachment, or when the suit is dismissed.

**10. Attachment before judgment not to affect rights of strangers nor bar decree-holder from applying for sale.**--Attachment before judgment shall not affect the rights, existing prior to the attachment, of persons not parties to the suit, nor bar any person holding a decree against the defendant from applying for the sale of the property under attachment in execution of such decree.

#### COMMENTS

Rule 10 read with S. 64, C.P.C. Section 64 of the Code and R. 10 of the Code deal with two different kinds of situations. The former deals with alienation of property after its attachment in execution of a decree and the latter deals with alienations after attachment before judgment. If the two completely different situations are to be treated at par with each other the same may provide an opportunity to the judgment-debtor to avoid attachment of his property in execution of a decree by entering into a sham transaction. It appears for such reasons that the legislature in its wisdom has couched the provisions of S. 64 in a different language from R. 10 of O. XXXVIII of the Code. [1992 CLC 1323].

**11. Property attached before judgment not to be re-attached in execution of decree.**--Where property is under attachment by virtue of the provisions of this Order and a decree is subsequently passed in favour of the plaintiff, it shall not be necessary upon an application for execution of such decree to apply for a re-attachment of the property.

#### COMMENTS

**Re-attachment.** Where order of attachment was suspended in appeal it cannot be said that the order was intact and that no fresh order was requested. [PLD 1999 Lah. 216]

12. Agricultural produce not attachable before judgment.--Nothing in this Order shall be deemed to authorize the plaintiff to apply for the attachment of any agricultural produce in the possession of an agriculturist, or to empower the Court to order the attachment or production of such produce.

13. Small Cause Court not to attach immovable property.--Nothing in this Order shall be deemed to empower any Court of Small Causes to make an order for the attachment of immovable property.

ORDER XXXIX

TEMPORARY INJUNCTIONS AND INTERLOCUTORY ORDERS

[See Sections 94 and 95]

Temporary Injunctions

1. Cases in which temporary injunction may be granted.--

Where in any suit it is proved by affidavit or otherwise--

- (a) that any property in dispute in a suit is in danger of being wasted, damaged or alienated by any party to the suit, or wrongfully sold in execution of a decree, or
- (b) that the defendant threatens, or intends, to remove or dispose of his property with a view to defraud his creditors, the Court may by order grant a temporary injunction to restrain such act, or make such other order for the purpose of staying and preventing the wasting, damaging, alienation, sale, removal or disposition of the property as the Court thinks fit, until the disposal of the suit or until further orders.

COMMENTS

Injunction. No injunction can be granted against day to day functioning of public functionaries. [2009 YLR 348]. An encroacher cannot be protected under this rule. [2009 MLD 301]. Where prayer for damages is made in alternative, then plaintiff despite quantification of damages can obtain injunction. [2008 CLD 1056]

For the purposes of grant of interim injunction, Court has to consider the existence of good prima facie case in favour of the plaintiff and balance of inconvenience

1. Rule 13 Ins. by the Small Cause Courts (Attachment of Immovable Property) Act, 1926 (1 of 1926) Section 4.

lies in his favour and he will suffer irreparable loss and injury, if the injunction is refused. [PLJ 2009 Karachi 99 (DB)] Failed to make out *prima facie* case for grant of restrain order. [PLJ 2015 Kar. 59]

**Interim injunction.** Courts have only to see as to whether *prima facie* arguable case exists in favour of applicant or not. That balance of convenience/inconvenience lies in whose favour and that which of parties is to suffer irreparable loss in case temporary injunction is not allowed. [PLJ 2010 Lahore 299] Basic principles for issuance of interim injunction *prima facie*, balance of convenience and irreparable loss. [PLJ 2015 AJ&K 28]

**Temporary injunction.** Civil suit against government functionaries to call in question change of site of construction. Competency of suit. Ingredients. Temporary injunction issued in instant case was illegal on such score alone because three ingredients i.e. *prima facie* case, balance of convenience and irreparable loss must co-exist for grant of temporary injunction. [PLJ 2009 Peshawar 185] Grant of temporary injunction in suit for permanent injunction against apprehended breach of contract. [PLJ 2015 AJ&K 28]

All three ingredients have to be present at the same time. In case any one of the ingredients is missing, the Court cannot grant temporary injunction. [2010 CLC 285]

**Relief of ad-interim injunction.** In other words, they would look to conduct of a party, and if same is not above board, grant of relief of ad interim injunction may be refused on such sole ground. [PLJ 2015 Lahore 19]

**Object.** Court has ample power to impose condition of deposit of money while granting interim injunction. [PLJ 2003 Lah. 217].

Absence of anyone of such ingredients would not warrant grant of injunction. [2003 MLD 688]. Court at such stage has to make only a tentative assessment of party's case for enabling itself to see whether three requisites for grant of injunction exist in favour of a party or not. [2003 CLD 407].

**Notice to other party.** Notice of a lis issued to the other side, the latter is expected to maintain a status quo. [2002 CLC 601].

Besides *prima facie* case exposure to irreparable injury must be shown additionally a plaintiff is obliged to establish balance of convenience in favour of grant of injunction and for the purpose of interlocutory matters affidavits alone have to be considered. [PLD 2000 Kar. 269]. Where serious question of law and fact arise for determination at trial, petitioner would be deemed to have a *prima facie* case. [1989 CLC 1801]. For purposes of existence or absence of a *prima facie* case in relation to exercise power under O. XXXIX, Rr. 1 & 2 of the Code facts canvassed by both sides have to be examined and it is on preponderance of facts as based on documentary material and averments in the affidavits that concept of arguable case has to be determined. [1992 CLC 1036]. Besides a good *prima facie* other two equally important ingredients viz irreparable loss and balance of convenience must also co-exist. [PLD 1992 Lah. 448].

Before a temporary injunction is granted, it must be satisfied that the applicant has a *prima facie* case; protection is necessary from the species of injuries known as

irreparable, before legal right can be established and the mischief or inconvenience likely to arise from the withholding of injunction is greater than by granting it. [1990 MLD 2002]

Where Attorney had executed sale deed in favour of real daughter, tentatively without written consent of the plaintiff, the plaintiff has a prima facie an arguable case in his favour. [2006 MLD 1717]. Document on record showing that property whereupon the wall was proposed to be constructed not owned by the plaintiff, therefore in order to exercise any right over said property, plaintiffs should have made out a *prima facie* legal basis for such claim. Plaintiff not entitled to grant of injunction. [2006 YLR 1443].

**Balance of convenience.** Defendant if restrained from importing goods, as prayed by the plaintiff same likely to effect on agricultural production in the country and defendant was purchasing the goods at the price lesser than the price offered by the plaintiff. Balance of inconveniences lay in favour of the defendant. [2006 CLC 679].

**Irreparable loss.** Irreparable injury means such injury which cannot be adequately remedied by damages. [1994 CLC 1601]. *Prima facie* case cannot be equated with indefeasible case. [PLD 2007 Kar. 11; 1992 CLC 2540]. Dispossession would cause irreparable loss and inconvenience. [2005 MLD 307].

No irreparable loss would be cause to plaintiff if injunction is refused because loss if any could be compensated in shape of damages which had already been claimed by plaintiff in prayer clause of suit. [2009 CLD 42].

**Discretionary relief.** Discretion vested in a Court of law has to be exercised judicially and equitably ensuring all the times, that the twain of law and justice are adequately applied and administered. [2000 SCMR 780] While granting injunction, Court has to see whether he comes with clean hand. [PLJ 2015 Lah. 19]

Stay order is operative from the moment it is passed. [PLJ 1984 Lah. 76].

**Concurrent finding.** Temporary injunction was dismissed by Courts below. Petitioners could not produce any documentary proof of family partition. Co-sharers. Joint property. Both the parties were joint owners of the property in question and petitioners were demanding injunction against their co-sharers as every co-sharer had possession on each and every inch of the joint property. If the petitioners wanted to get any interim injunction, first of all they would move an application for partition in accordance with law. Since both the parties were co-sharers in the suit property. No temporary injunction can be granted against the co-owners. [PLJ 2010 Lahore 654]

**Compressed Natural Gas Station.** Compressed Natural Gas Station on a plot converted properly and legally cannot be a cause of inconvenience or injury to a person in the vicinity, order passed by Single Bench of High Court granting injunction set-aside. [2009 MLD 231].

**Oral agreement to sell.** Mere possession of a person over a piece of land would not entitle him to grant of temporary injunction. [PLJ 2015 Lahore 32]

**Ingredients of.** Petitioner had not been able to establish any of ingredients for grant of temporary injunction i.e. *prima facie* case, irreparable loss and balance of inconvenience in their favour. [PLJ 2013 Lahore 466]

One has to establish three requirements of law regarding interim injunction, a *prima facie* case, balance of convenience and irreparable loss. If any of three ingredients was missing, the plaintiff was not entitled for any interim injunction. [PLJ 2012 AJ&K 35]

Originator owner and user of trademarks. All such relief by way of damages, injunction, accounts were available to proprietor of trademark simultaneously and not as an alternate to each other and just because to interim injunction a plaintiff might claim damages and compensation in a suit relating to trademark rights, interim relief cannot be denied on that ground. [PLJ 2013 Lahore 65]

**2. Injunction to restrain repetition or continuance of breach.**—(1) In any suit for restraining the defendant from committing a breach of contract or other injury of any kind, whether compensation is claimed in the suit or not, the plaintiff may, at any time after the commencement of the suit, and either before or after judgment, apply to the Court for a temporary injunction to restrain the defendant from committing the breach of contract or injury complained of, or any breach of contract or injury of a like kind arising out of the same contract or relating to the same property or right.

(2) The Court may by order grant such injunction, on such terms, as to the duration of the injunction, keeping an account, giving security or otherwise, as the Court thinks fit.

(3) In case of disobedience, or of breach of any such terms, the Court granting an injunction may order the property of the person guilty of such disobedience or breach to be attached, and may also order such person to be detained in <sup>2</sup>[\*\*\*] prison for a term not exceeding six months, unless in the meantime the Court directs his release.

(4) No attachment under this rule shall remain in force for more than one year, at the end of which time, if the disobedience or breach continues, the property attached may be sold, and out of proceeds the Court may award such compensation as it thinks fit, and shall pay the balance, if any, to the party entitled thereto.

### **Punjab Amendment:**

The following amendments have been made by the Lahore High Court u/S. 122 C.P.C. vide Notification No. 65/Legislation/XI-Y-26, dated 26-03-2007; PLD 2004-2009 Supp. Pb'. St. 326:

(i) In Rule 2, sub-rule (3) shall be omitted.

(ii) In Rule 2B, for the words "six months", the words "one year" shall be substituted and after the proviso, the following shall be added:-

"Provided also that the case shall be disposed of expeditiously."

(iii) The following shall be added as Rule 2-C:-

(2C) Consequence of disobedience, or breach of injunction. (1) In the case of disobedience of any injunction granted or other order made under Rule 1 or Rule 2 or breach of any of the terms on which the injunction was granted or the order made, the Court granting the injunction or making the order, or any Court to which the suit or proceeding is transferred, may order the property of the person guilty of such disobedience or breach to be attached, and may also order such person to be detained in the prison for a term not exceeding three months, unless in the meantime the Court directs his release.

(2) No attachment made under this rule shall remain in force for more than one year, at the end of which time, if the disobedience or breach continues, the property attached may be sold and out of the proceeds, the Court may award such compensation as it thinks fit to the injured party and shall pay the balance, if any, to the party entitled thereto.]

(iv) In Rule 4-A for the words "six months", the words "one years" shall be substituted.

### COMMENTS

**Revisional jurisdiction.** High Court did not inclined to interfere in revisional jurisdiction that petitioner had failed to bring home that First Appellate Court by way of the order exercised jurisdiction which was not vested in it by law or had failed to exercise a jurisdiction so vested or had acted in exercise of his jurisdiction illegality or with material irregularity, land was reserved as Asaish Deh with consent of land owner, land in-question having been mutated some 22 years earlier to filing of suit, plaint was clearly barred by limitation and land reserved as Asaish Deh being earmarked for construction of a public school. No question of grant of injunction against the proposed project. No possible exception to the same can be taken in revisional jurisdiction. [PLJ 2010 Lahore 684]

**Power of High Court.** High Court is empowered to issue temporary injunction and also vested with the power to impose penalty under O. XXXIX, Rr. 2 & 3 for violation thereof can order detention in prison for a term of six months and payment of compensation. [2000 SCMR 460].

**Expiry of stay order.** Order XXXIX, R. 2-B of CPC the statutory period of the injunctive order is 6 months or disposal of the suit whether first occurs or if the same is extended with reasons to be communicated to H.C. In the instant case contempt petition was filed after 6 months when no substantive order was in field nor the same had been extended by trial Court. [PLJ 2009 Peshawar 77]

<sup>3</sup>[(2-A) An interim injunction passed under R. 1 or 2 in the absence of defendant shall not ordinarily exceed fifteen days:

Provided that such injunction may be extended for failure of service on the defendant when such failure is not attributable to plaintiff or when the defendant seeks time for defence of application for injunction.

(2-B) The order of injunction made under Rule 1 or 2 after hearing the parties or after notice to the defendant shall cease to have effect on the expiration of six months unless extended by the Court after hearing the parties again and for reasons to be recorded for such extension:

Provided that report of such extension shall be submitted to the High Court.]

### COMMENTS

**Contempt proceedings.** Statutory period of injunctive order is six months according to Rule (2-B) of Order XXXIX, C.P.C. Contempt application filed after about 8 months from passing of said order in circumstances neither injunctive order was existing at the time of moving the contempt of Court application nor the alleged violation proved on record. [2009 CLC 377]

**Cancellation of interim injunction.** Undertaking though affidavit to remove superstructure if decree is passed in favour of petitioner. Not a valid and legal ground for cancellation. [PLJ 2010 AJ&K 112]

**Suit for declaration. Interim injunction.** For purposes of deciding application for grant of temporary injunction, Courts have only to see as to whether *prima facie* arguable case exists in favour of applicant or not. That balance of convenience/inconvenience lies in whose favour and that which of parties is to suffer irreparable loss in case temporary injunction is not allowed. Petitioner has made out a *prima facie* case and balance of convenience/inconvenience also lies in her favour. It is plaintiff/petitioner who has to suffer irreparable loss if interim injunction is not granted. [PLJ 2010 Lahore 299]

**Locus standi.** Respondent has no *locus standi* to file contempt petition as he has no order in his favor. Under Order XXXIX, Rule 2(3) of CPC, no one can be held guilty of disobedience of an order except the person to whom the order is directed and Court has no jurisdiction to initiate contempt of Court proceeding against whom no order is made. Contempt petition against appellants was not maintainable. [PLJ 2009 SC 709]

**Originator owner and user of trademarks.** All such relief by way of damages, injunction, accounts were available to proprietor of trademark simultaneously and not as an alternate to each other and just because to interim injunction a plaintiff might claim damages and compensation in a suit relating to trademark rights, interim relief cannot be denied on that ground. [PLJ 2013 Lahore 65]

43. Before granting injunction Court to direct notice to opposite party.--The Court shall in all cases, before granting an

injunction, direct notice of the application for the same to be given to the opposite-party:

[Provided that, except in the case of sale of goods for default in payment, at the stipulated time, of a debt in respect of which the goods were pledged with any bank, or where the injunction is to be granted against Government or a Government servant as such or any statutory authority, board or corporation set up or established by Government in any case not involving the ejection of any person from, or the demolition of any premises, the Court may, where it appears that the object of granting injunction would be defeated by the delay, dispense with such notice:

Provided further that the period of notice under this rule to Government or a Government servant as such or any statutory authority, board or corporation set up or established by Government shall not be less than two days nor exceed seven days.]

**West Pakistan Amendment.** By West Pakistan Act, XXX of 1964, in the proviso the following amendment was made, namely between the words "bank" and the words "by government" the following shall be added:-

"or where the injunction is to be granted against the Government or Government servant as such or any statutory authority, board or corporation set up or established by Government.

**The following proviso was added:** "Provided further that the period of notice under this rule to Government or a Government servant as such or any statutory authority, board or corporation set up or established by Government shall not be less than two days or exceed seven days."

### COMMENTS

**Notice to opposite party.** Rule 3 of O. XXXIX of the Code postulates that the Court shall in all cases, before granting an injunction, direct notice of the application to the opposite party. [1990 CLC 1756]. Order XXXIX is a complete Code in itself. [2003 CLC 1947].

**Proviso.** First proviso to Rule 3 of O. XXXIX, C.P.C. has relaxed the requirement of issuance of prior notice, before injunctive order, where it appears to the Court that object of grant of injunction would be defeated by the delay while exercising such power. The object is to grant relief against ex parte order passed under O. XXIX, R. 3, C.P.C. or when it is necessary on account of subsequent change in the circumstance to vary or modify or set aside an interim order which had become final. [2003 CLC 1947].

Violation of order of status quo. Trial Court is obliged in view of R. 5 of O.XX, C.P.C, to advert to and record findings on each issue with reasons and likewise similar duty is cast on the Appellate Court in view of R. 31 of O. XLI, C.P.C, Issue as to violation of the status quo order needs to be adverted to by the Courts while deciding all issues including the said issue. [2003 YLR 3177].

**Revisional jurisdiction.** High Court did not inclined to interfere in revisional jurisdiction that petitioner had failed to bring home that First Appellate Court by way of the order exercised jurisdiction which was not vested in it by law or had failed to exercise a jurisdiction so vested or had acted in exercise of his jurisdiction illegality or with material irregularity, land was reserved as Asaish Deh with consent of land owner, land in-question having been mutated some 22 years earlier to filing of suit, plaint was clearly barred by limitation and land reserved as Asaish Deh being earmarked for construction of a public school. No question of grant of injunction against the proposed project. No possible exception to the same can be taken in revisional jurisdiction. [PLJ 2010 Lahore 684]

**4. Order for injunction may be discharged, varied or set aside.**--Any order for a injunction may be discharged, or varied, or set aside by the Court, on application made thereto by any party dissatisfied with such order.

**64-A. Injunction to cease to be in force after certain period.**--An injunction granted by a Court in a suit which seeks to question the validity or legal effect of any order made, proceedings taken or act done by any authority or person, which has been made, taken or done, or purports to have been made, taken or done, under any law which is specified in Part I of the First Schedule to the Constitution or relates to, or is connected with, assessment or collection of public revenues shall cease to have effect on the expiration of a period of [six months] following the day on which it is made, unless the case is finally decided, or the injunction is discharged or set aside, by the Court earlier.

**Explanation.** In this rule, 'public revenues' includes the dues of any bank owned by the Federal Government or of any corporation or undertaking owned or controlled by the Federal Government or a Provincial Government.

**5. Injunction to corporation binding on its officers.**--An injunction directed to a corporation is binding not only on the corporation itself, but also on all members and officers of the corporation whose personal action it seeks to restrain.

3. Added by Act, XV of 1976.

4. Subs. by Ordinance, XXXV of 1997.

## Interlocutory Orders

**6. Power to order interim sale.**--The Court may, on the application of any party to a suit, order the sale, by any person named in such order, and in such manner and on such terms as it thinks fit, of any movable property, being the subject-matter of such suit, or attached before judgment in such suit, which is subject to speedy and natural decay, or which for any other just and sufficient cause it may be desirable to have sold at once.

**7. Detention, preservation, inspection, etc., of subject-matter of suit.**--(1) The Court may, on the application of any party to a suit and on such terms as it thinks fit,--

- (a) make an order for the detention, preservation or inspection of any property which is the subject-matter of such suit, or as to which any question may arise therein;
- (b) for all or any of the purposes aforesaid authorize any person to enter upon or into any land or building in the possession of any other party to such suit; and
- (c) for all or any of the purposes aforesaid authorize any samples to be taken, or any observation to be made or experiment to be tried, which may seem necessary or expedient for the purpose of obtaining full information or evidence.

(2) The provisions as to execution of process shall apply, *mutatis mutandis*, to persons authorized to enter under this rule.

**8. Application for such orders to be after notice.**--(1) An application by the plaintiff for an order under Rule 6 or Rule 7 may be made after notice to the defendant at any time after institution of the suit.

(2) An application by the defendant for a like order may be made after notice to the plaintiff at any time after appearance.

**9. When party may be put in immediate possession of land the subject-matter of suit.**--Where land paying revenue to Government or a tenure liable to sale, is the subject-matter of a suit, if the party in possession of such land or tenure neglects to pay the Government revenue, or the rent due to the proprietor of the tenure, as the case may be, and such land or tenure is consequently ordered to be sold, any other party to the suit claiming to have an interest in such land or tenure may, upon payment of the revenue or rent due previously to the sale (and with or without security at the discretion of the Court), be put in immediate possession of the land or tenure:

---

and the Court in its decree award against the defaulter the amount so paid, with interest thereon at such rate as the Court thinks fit, or may charge the amount so paid, with interest thereon at such rate as the Court orders, in any adjustment of accounts which may be directed in the decree passed in the suit.

**10. Deposit of money, etc., in Court.**--Where the subject-matter of a suit is money or some other thing capable of delivery, and any party, thereto admits that he holds such money or other thing as a trustee for another party, or that it belongs or is due to another party the Court may order the same to be deposited in Court or delivered to such last-named party, with or without security, subject to the further direction of the Court.

---