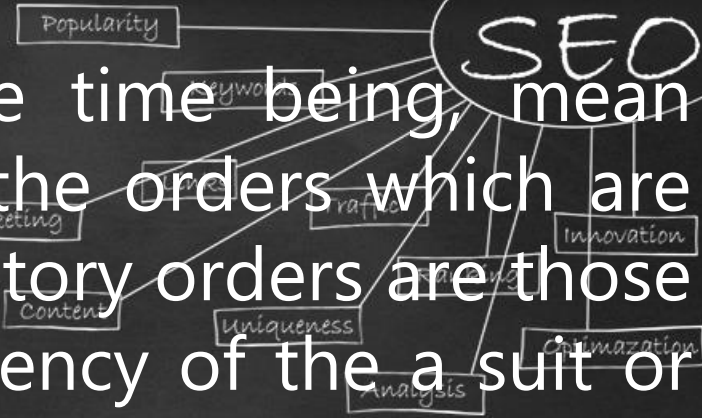




Interim Orders

Dr. A. B. Karwa





- The term Interim means for the time being, mean while, temporary, provisional or the orders which are not final. Thus interim or interlocutory orders are those passed by court during the pendency of the a suit or proceeding's after the institution of the suit and before it finally disposed of by the court may make interim order on the application of the plaintiff as may appear to the court to be just and convenient. These orders are made generally for the purpose of protection of subject matter of the suit.
- Interlocutory means not that which decides the cause, but that which only settles some intervening matter relating to the case. a decree or judgement given provisionally during the course of a legal action.

Interim orders



Payment in court order 24

Security for costs order 25

Commissions order 26

Arrest before Judgement order 38

Attachment before judgement order 38

Temporary Injunction Order 39

Interlocutory order Order 39

Receiver Order 40

Payment in Court (Order 24)

- The defendant in any suit to recover a debt or damage may, at any stage of the suit, deposit in Court such sum of money as he considers a satisfaction in full of the claim.
- 2 Notice of deposit
- 3 Interest on deposit not allowed to plaintiff after notice
- 4 Procedure where plaintiff accepts deposit as satisfaction in part

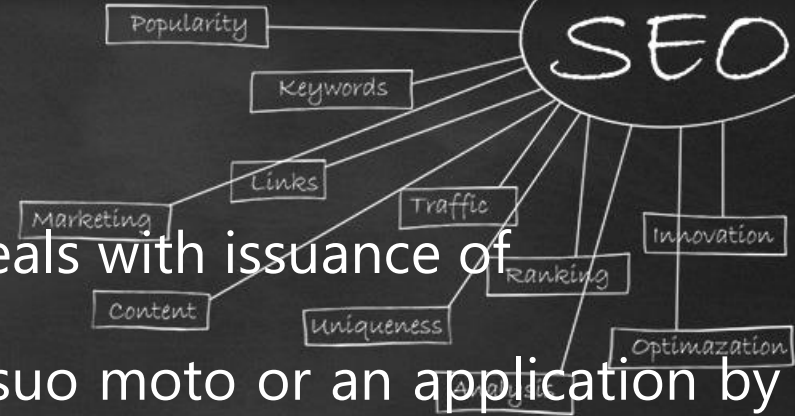


Security for costs (Order 25)

- At any stage of a suit, the Court may, either Suo Moto or on the application of any defendant, order the plaintiff, for reasons to be recorded to give within the time fixed by it security for the payment of all costs incurred and likely to be incurred by any defendant:
- Provided that such an order shall be made in all cases in which it appears to the Court that a sole plaintiff is, or all the plaintiffs are, residing out of India and that such plaintiff does not possess or that no one of such plaintiffs possesses any sufficient immovable property with India other than the property in suit.



Commission (Order 26)



- Section 75 to 78 of CPC and order 26 deals with issuance of commissions
- It can be exercised by the court either suo moto or an application by a party to the suit.
- Purposes (Sec. 75)
 1. To examine witnesses
 2. To make local investigation
 3. To adjust accounts
 4. To make partition.
 5. To hold investigation.
 6. To conduct sale.
 7. To perform ministerial act.
- Powers:- (Rule 16-18)
 - Summon and procure the attendance
 - Call for and examine documents.
 - Enter into any land or building mentioned in the order
 - Proceed ex-parte if the parties do not appear.

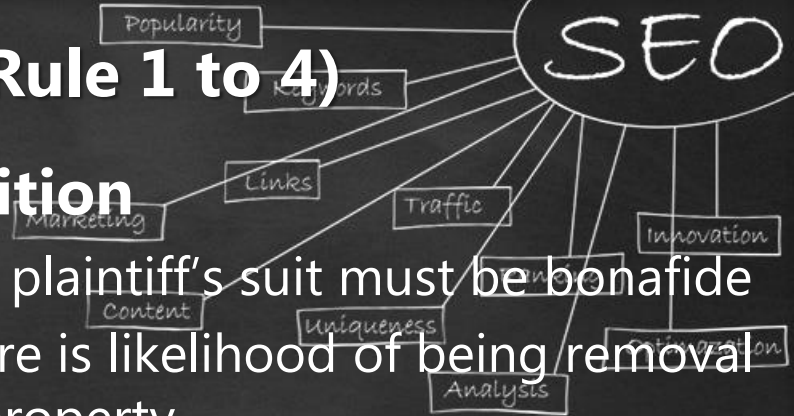
Arrest before Judgment (Order 38 Rule 1 to 4)

Object and Grounds

- Order 38 deals with arrest as well as attachment before Judgment
- Rules 1 to 4 deals with the provisions of arrest before Judgment.
- Grounds
 - The defendant with intent to delay,
 - Has absconded
 - Is about to abscond
 - Has dispose of or removed his property
 - Is about to leave

Condition

- The plaintiff's suit must be bonafide
- There is likelihood of being removal of property
- Security:-**
- No arrest before judgment**
 - ✓ Suit for the recovery of immoveable property.
 - ✓ Suit for the partition of immoveable property.
 - ✓ Suit for foreclosure or sale or redemption in the case of mortgage of, or charge upon, immoveable property.
 - ✓ Suit for determination of any other right to or interest in immoveable property.



Attachment before Judgement Order 38 Rule 5-13

SEO

Keywords

Marketing

Traffic

Innovation

Determination of attachment

Object

- Order 38 Rule 5 -13 deals with attachment before judgement.
- The primary object of attachment is to prevent any attempt on the part of the defendant the realisation of the decree passed in favour of the plaintiff.
- Wherever the court is satisfied that,
 - The defendant is about to dispose of the whole or any part of his property
 - Is about to remove the whole or any part of his property from the local limits of the jurisdiction of court.

Where the defendant furnishes security.

Where attaching creditors abandoned / withdraws attachment

Where the suit is dismissed

Where the decree is satisfied.

Where the decree is reversed/ set aside

Where the court releases the property

Where after the attachment, application for execution is dismissed.

Where the decree- holders fails to so what he is required to do under decree.

Temporary Injunction (Order 39 Rule 1 to 5)

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 a execution of a decree, or
- (b) that the defendant threatens, or intends, to remove or dispose of his property with a view to [defrauding] his creditors,
- (c) that the defendant threatens to dispossess, the plaintiff or otherwise cause injury to the plaintiff in relation to any property in dispute in the suit,] the Court may be 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 or dispossession of the plaintiff, or otherwise causing injury to the plaintiff in relation to any property in dispute in the suit] as the Court thinks fit, until the disposal of the suit or until further orders.
- Injunction to restrain repetition or continuance of breach—

