

Garnishee Orders in Banking

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|--|----------|
| Garnishee Orders in Banking..... | 2 |
| 1. What is a Garnishee Order?..... | 2 |
| Example..... | 2 |
| Example..... | 2 |
| 2. Parties Involved..... | 3 |
| 3. Purpose of a Garnishee Order..... | 3 |
| 4. Meaning of the Term “Garnishee”..... | 3 |
| 5. Legal Provision in India..... | 3 |
| 6. How a Garnishee Order Works..... | 4 |
| Step 1: Decree Passed..... | 4 |
| Step 2: Creditor Files Application..... | 4 |
| Step 3: Court Issues Garnishee Notice..... | 4 |
| Step 4: Garnishee’s Reply..... | 4 |
| Step 5: Court Passes Garnishee Order Absolute..... | 4 |
| 7. Legal Consequences of Disobedience..... | 4 |
| 8. Appealability..... | 5 |
| 9. Two Types of Garnishee Orders..... | 5 |
| 10. Example from Daily Life..... | 5 |
| 11. Rights and Duties of the Garnishee..... | 5 |
| 12. Key Case Laws..... | 5 |
| 13. Importance in Banking Law..... | 6 |
| 14. Limitations / Exceptions..... | 6 |

Garnishee Orders in Banking

1. What is a Garnishee Order?

A **Garnishee Order** is an order of a court directing a **third person** (the Garnishee), who owes money to the **Judgment Debtor**, **not to pay** that money to the debtor, but instead **to pay it to the Decree Holder** through the court.

👉 In simple terms:

If **A** has to pay **B**, but **C** owes money to **A**, the court can order **C** to pay **B** directly.

This way, the creditor gets paid without waiting for the debtor to act.

Example

Suppose:

- **Ravi (Debtor)** borrowed ₹2 lakh from **Bank (Creditor)**.
- Ravi doesn't repay.
- But Ravi has ₹2 lakh in his **account with SBI Bank**.

👉 The court can issue a **Garnishee Order** to **SBI Bank**, asking it to **pay the amount directly** to the creditor (the Bank in this case).

Here,

- **Ravi** = Judgment Debtor
- **Bank (who filed case)** = Judgment Creditor
- **SBI (who holds Ravi's money)** = Garnishee

Example

Suppose:

- Mr. A (Decree Holder) wins a case against Mr. B (Judgment Debtor) for ₹5 lakh.
- Mr. B has ₹5 lakh in his account in **XYZ Bank**.

Now, instead of chasing Mr. B directly, **Mr. A applies to the court** for a **Garnishee Order**.

The court issues an order to **XYZ Bank (the Garnishee)** directing it **not to release the money to Mr. B**, but to **deposit it in court** for payment to Mr. A.

- Once XYZ Bank pays the money to the court, the bank's liability to Mr. B is legally cleared for that amount.

2. Parties Involved

| Party | Role |
|------------------------|---|
| Decree Holder | The person who has won the case and wants to recover money. |
| Judgment Debtor | The person who has lost the case and owes money. |
| Garnishee | A third person who holds money or property belonging to the judgment debtor (e.g., a bank or employer). |

3. Purpose of a Garnishee Order

The main **purpose** is to make the process of execution **faster and more effective** by allowing the decree-holder to directly reach the money of the judgment debtor lying with a third party (like a bank, employer, or customer).

- It saves time, avoids fraudulent transfers by the debtor, and ensures the creditor gets paid without unnecessary delay.

4. Meaning of the Term “Garnishee”

The word “**Garnishee**” comes from the old French word “*garnir*”, meaning **to warn or to furnish**.

It reflects the idea of warning the third party not to pay the debtor because that money is legally claimed by the creditor.

5. Legal Provision in India

In India, Garnishee Orders are governed by **Order 21 Rules 46 to 52 of the Code of Civil Procedure, 1908 (CPC)**.

These rules deal with the **attachment of debts**, including money held in bank accounts or due from third parties.

So, a Garnishee Order is part of the **execution of a decree** — it helps the decree-holder (creditor) recover the judgment amount.

6. How a Garnishee Order Works

Step 1: Decree Passed

The court gives a **decree** that the debtor must pay a certain amount to the creditor.

Step 2: Creditor Files Application

The creditor applies to the court, saying —

“The debtor has money with someone else (for example, his bank). Please let me recover my dues from there.”

Step 3: Court Issues Garnishee Notice

The court issues a **notice to the garnishee** (the third party), asking:

“Do you owe any money to the debtor? If yes, how much?”

Step 4: Garnishee’s Reply

- If the garnishee **admits** owing money — the court can **order payment directly** to the creditor.
- If the garnishee **denies** — the court holds a short hearing to decide whether money is owed.

Step 5: Court Passes Garnishee Order Absolute

If satisfied, the court passes a **final order** (called “**Garnishee Order Absolute**”), directing the garnishee to pay the money directly to the creditor.

7. Legal Consequences of Disobedience

If the Garnishee:

- Fails to pay money into court, and
- Fails to appear or show cause,

Then the court can treat the order as a **decree against the Garnishee himself** (Order 21, Rule 46B CPC). That means the creditor can recover directly from the Garnishee as if he were the debtor.

8. Appealability

Any order passed in garnishee proceedings is **appealable as a decree** under Section 96 of CPC.

9. Two Types of Garnishee Orders

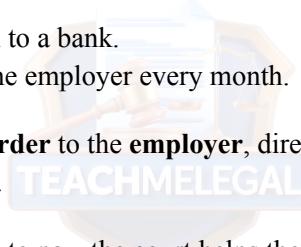
| Type | Meaning |
|---------------------------------|--|
| Garnishee Order Nisi | Temporary order – gives the garnishee a chance to appear and explain whether they owe money. |
| Garnishee Order Absolute | Final order – directs the garnishee to pay the creditor if no valid objection is raised. |

💡 *Think of “nisi” as notice, and “absolute” as final order.*

10. Example from Daily Life

👩 Suppose an employee owes ₹1 lakh to a bank.

The employee's **salary** is credited by the employer every month.

👉 The court can issue a **Garnishee Order** to the employer, directing them to **deduct ₹1 lakh from salary and pay it directly to the bank.** 

So, instead of waiting for the employee to pay, the court helps the creditor recover directly.

11. Rights and Duties of the Garnishee

- Must **truthfully declare** whether they owe money to the debtor.
- Must **not ignore** the court notice — doing so may make them **personally liable**.
- If they pay under a garnishee order, that payment acts as **full discharge** of their debt to the debtor.

12. Key Case Laws

1. **State Bank of India v. National Institute of Information Technology (NIIT), (2000)**
 - The Delhi High Court held that a bank can be treated as a *garnishee* and made to pay money from a customer's account under a valid court order.
2. **Union of India v. Karam Chand Thapar & Bros. (1978)**
 - The Supreme Court explained that a garnishee order is an *attachment of debt* due from a third party to the judgment debtor.

13. Importance in Banking Law

- Very common in **loan recovery** and **money decree** cases.
- Banks often become **garnishees**, as they hold the debtor's accounts.
- Ensures that **creditors actually receive money** without the debtor evading payment.

For example, in a **loan recovery case**, a bank can get a garnishee order on the debtor's **salary, deposits, or rent**.

14. Limitations / Exceptions

- Cannot be issued on **future debts** (only existing debts).
- Cannot attach **salary before it becomes due**.
- Certain payments (like **pension, gratuity, provident fund**) are protected from attachment under **Section 60 of CPC**.
- Court must ensure the **garnishee is not unfairly burdened**.

