

# Garnishee Orders in Banking

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# 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
<b>Decree Holder</b>	The person who has won the case and wants to recover money.
<b>Judgment Debtor</b>	The person who has lost the case and owes money.
<b>Garnishee</b>	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
<b>Garnishee Order Nisi</b>	Temporary order – gives the garnishee a chance to appear and explain whether they owe money.
<b>Garnishee Order Absolute</b>	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**.

