

CHAPTER XXVIII

Rules for Execution of Decrees.

Rules for the execution of decrees and executable orders passed by the High Court in exercise of the original jurisdiction including cases decided under Articles 226 and 227 of the Constitution of India, under the provisions of the Indian Income-tax Act, the Orissa Sales Tax Act and other taxing statutes and the contempt cases.

1. All applications for execution shall be presented before the Registrar. Such applications shall be in writing, signed and verified by the applicant and shall include, as far as practicable the particulars mentioned in Rule 11(2) of Order XXI of the Code of Civil Procedure.

2. Every application shall, on presentation, be examined by the Stamp Reporter who shall certify thereon whether it is in due form within time and the court-fee paid thereon is correct.

3. The fee chargeable for serving or executing any process shall be, as laid down in Rule 2 of Part IV, Chapter XVIII:

Provided that the decree-holder shall deposit a sum of Rs.25 where process of attachment of property by actual seizure is issued and such sum as may be fixed by the Court where process is issued for executing the decree by the arrest and detention in the civil prison of a judgment-debtor.

4. The decree-holder shall, in addition to the Court-fee stamp for the service of process file the requisite number of the printed forms for the issue of process on the judgment-debtor. He shall also serve a copy of the application on the Advocate for the judgment-debtor, if any, appearing in the original proceeding and file a receipt thereof.

5. All processes issued from Court shall, ordinarily, be served or executed through the Munsif within whose jurisdiction, the person to be served, resides or the property in question is situate.

6. On receipt of the notice under Rule 4, the Judgment-debtor or his Advocate shall, within such time as may be fixed by the Court pay to the decree-holder or deposit in Court, the amount due under execution.

7. (i) If such payment is not made within the time fixed, the Registrar shall proceed to realize the amount in accordance with the provisions of Order XXI of the Code of Civil Procedure and the said provisions shall apply mutatis mutandis to the applications filed under this chapter :

Provided that, whenever possible, the Registrar shall in the first instance, proceed to realize the amount by arrest and detention in the Civil prison, of the judgment debtor as provided in Rules 37, 38, 39 and 40 of Order XXI of the Code.

(ii) For the purpose of such execution, the Registrar shall be deemed to be the Court which passed the decree or order, as the case may be.

(iii) An appeal shall lie to a Division Bench of the Court against an order of the Registrar passed under sub-Rule(3) of rule 40 of Order XXI of the Code of Civil Procedure or any other order which under the law is appealable.

8. The Advocate's fees shall ordinarily be Rs.32 in the execution applications filed under this Chapter.