

PART K- CUSTODY AND DISPOSAL OF MOVEABLE PROPERTY
PENDING SALE

References.

- 1. Rules relating to the custody and disposal of moveable property (other than agriculture produce) attached pending sale, are contained in rules 43 to 43 (D) or Order XXI of the first schedule to the Code of Civil Procedure (Act V of 1908) as modified or added by the High Court. These have been reproduced in Chapter 21 of this Volume.
- 2. Light and readily portable articles of all kinds, and especially valuable property of small bluk, such as jewels etc., shall after seizures , be taken to the headquarters of the High Court executing the decree and be made over there to the custody of such officers as the Court may direct.

Jewels and portable property to be brought to Court.

Note:- Property of the nature described in this rule when placed in the custody the custody of the Nazir may be placed by him in his cash chest and lodged in the outer room of Treasury, if it is open, as provided in order 4(2) of the Punjab Treasury Manual, if it is closed, the presiding officer of the Court must make other suitable arrangement for its safe custody.

- 3. Live stock and other property which is bulky or not readily portable should be dealt with in accordance with the second proviso to rule 43.
- 4. The schedule of property to be annexed to the bond which a custodian must furnish under the above mentioned rule must be in the following form:-

Bulky Property and live stock

Form of schedule of property.

Schedule of property attached

Schedule of property attached and made over toson of ofas custodian on the of19.....

Detail of Property	Estimated	
Value	Total.....

Sd/..... Sd/-

.....
Witness.
Custodian

Sd/..... Sd/-

.....
Witness. Attaching
Officer

Sd/-

.....
Judgment-debtor

(To BE PRINTED ON THE REVERSE OF THE FORM)

Directions in regard to attached property. .

I.No person can be compelled by the Court or attaching officer thereof to take charge of attached property as a custodian.

II.A custodian may at any time terminate his responsibilities by giving notice to the Court of his desire to be relieved of his trust, and delivering to the proper officer of the Court the property made over to him.

III.When any property is taken back from a custodian he should be granted a receipt for the same.

IV.When property is made over to a custodian a schedule of property should be drawn up by the attaching officer in triplicate, dated and signed by

- (a) the custodian and his sureties;
- (b)the officer or the Court who made the attachment;
- (c)the person whose property is attached and made over; and
- (d)two respectable witnesses,

One copy will be transmitted to the Court by the attaching officer and placed on the record ; one copy will be made over to the person whose property is attached and one copy will be made over to the custodian.

V.In regard to livestock the following directions apply

(a)The custodian is bound to take all reasonable and proper care of any live-stock entrusted to him.

(b)The custodian is responsible for the value of any live- stock which he fails to deliver to the Court or its authorized officer, when required so to do. If any live-stock is lost or stolen or dies while in the hands of a custodian, such custodian is bound to satisfy the Court that its loss or death was not due to his fault or neglect.

(c)If the judgment-debtor or any person claiming to be interested in any attached animal has been permitted to make arrangements for feeding the same (not being inconsistent with its safe custody, while it is under attachment),

he may, in the case of poultry, mulch cows, etc., take the eggs, milk, etc.

5. Whenever attached property kept in the village or place where it is attached is live stock, a note shall be added on the schedule to show what arrangements have been made for its keep, i.e., whether it is to be fed by the custodian, and, if so, at what charge or by the judgment-debtor or any person interested. If it is to be fed by the judgment-debtor or a person claiming to be interested as permitted by Rule 43-B (1) of Order XXI, the arrangements made should be described on the Schedule to show that they are not inconsistent with its safe custody.

Arrangement for feeding to be noted on Schedule.
6. If the property is of such a nature that its value will deteriorate unless special arrangements are made for its storage or for carrying out some preparatory process during the period of attachment the necessary arrangement shall be made and noted at the foot of the schedule; provided that, if in such cases the judgment-debtor and decree-holder agree in writing to the immediate sale of the property the officer shall proceed to sell it by auction forthwith, after giving such notice to intending purchasers as the circumstances of the case allow.

Arrangements when value of property is liable to deteriorate.
7. All arrangements made under these rules shall be made subject to the approval and confirmation of the Court executing the decree.

Arrangements subject to approval of Court.
8. If the arrangements made by the attaching officer are modified by the Court, a note of the modifications ordered shall be made on the schedule and such note shall be signed by the parties who originally signed the schedule or a fresh schedule shall be prepared in the manner provided above according as the Court may direct.

Modification of arrangements.
9. If the Court directs the release of the property, in whole or in part, the articles released shall be made over to the person to whom the Court orders them to be delivered, by an officer of the Court, in the presence of the custodian, judgment-debtor and the witnesses mentioned; or, if their presence cannot be conveniently obtained, two other respectable witnesses.

Release of property.
10. If any reclamations are then made, a note of such reclamation shall be made at the time by the officer of the Court, and such note shall be signed by the person making them. The statements of the custodian and witnesses shall, likewise, be recorded on the subject by the

Reclamations.

officer of the Court, and shall be signed by such custodian and witnesses.

Custodian
liable for
criminal
breach of
trust.

11. Any person who has undertaken to keep attached property under Rule 43 (1) (c) of Order XXI shall not only be liable to be proceeded against as a surety under Section 145 (vide Rule 43-ID), but if the facts disclose that he has been guilty of 'criminal breach of trust', he will also be liable to be prosecuted for that offence.

instructions
reattachment
of property
which is not
left in local
custody.

12. Instructions laid down in Rules 43 to 43-D of Order XXI refer, in the main, to cases in which attached property is not removed from the town or village in which it is found by the attaching officer. In cases in which the property is not left in local custody the attaching officer should still, in order to avoid, as far as possible, resistance or obstruction and to facilitate the disposal of claims be careful to attach the property in the presence of two respectable house-holders of the village or town where the attachment is made and to draw up a schedule of property attached and to procure their signatures to it.