

No. 321.

THE COURTS OF JUSTICE LAW, 1953 (Section 78)

AND

THE CIVIL PROCEDURE LAW, CAP. 7 AND LAW 24 OF 1954
(Section 13).

RULES OF COURT.

R. P. ARMITAGE,
Governor.

In exercise of the powers vested in me by section 78 of the Courts of Justice Law, 1953, and section 13 of the Civil Procedure Law, 1954, I, the Governor, with the advice and assistance of the Chief Justice, do hereby make the following Rules :—

40 of 1953
Cap. 7
24 of 1954

1. These Rules may be cited as the Rules of Court (No. 1) 1954, and shall be read as one with the Rules of Court, 1938 to (No. 2) 1953 (hereinafter referred to as "the principal Rules") and the principal Rules and these Rules may together be cited as the Rules of Court, 1938 to (No. 1) 1954.

Gazettes :
Suppl.No.3:
1.6.1938
to
3.9.1953

2. The principal Rules are hereby amended by the insertion therein of the following Order immediately after Order 42 :—

"ORDER 42A.

Attachment and Sequestration.

1. Where any order is issued by any Court directing any act to be done or prohibiting the doing of any act there shall be endorsed by the Registrar on the copy of it, to be served on the person required to obey it, a memorandum in the words or to the effect following :

E.41, 5.

' If you, the within-named A.B., neglect to obey this order, by the time therein limited, you will be liable to be arrested and to have your property sequestered.'

2. An office copy of the order shall be served on the person to whom the order is directed. The service shall, unless otherwise directed by the Court or a Judge, be personal.

E.41, 5 and
E.44, 2.

3.—(1) Where such an order has been issued by any Court and the person directed to do or prohibited from doing an act (hereinafter referred to as 'the respondent') refuses or neglects to do or abstain from doing it, according to the directions of such order, the person in whose favour such order has been given (hereinafter referred to as 'the applicant') may apply to the Court for a writ of attachment.

E.44, 2.

(2) Such an application shall be made by summons supported by affidavit and an office copy thereof shall, unless otherwise directed by the Court or a Judge, be served on the respondent personally. But the Court or a Judge, if satisfied that the delay caused by proceeding in the aforesaid way would or might entail irreparable or serious mischief, may make an order *ex parte* upon such terms as to costs or otherwise, and subject to such undertaking, if any, as the Court or Judge may think just ; and any party affected by such order may move to set it aside.

E.44, 2.

E.52, 3.

4. On the return day of the summons, if the respondent does not attend and the Court is satisfied that he has been duly served, the Court may order that a writ of attachment be issued against him.

5. The Court may enlarge the time for the appearance of the respondent, or may, on the return day of the summons, direct that the writ of attachment shall issue only until after a certain time and in the event of his continued disobedience at that time to the order in respect of which he has been guilty of disobedience.

6. If the respondent shall not establish sufficient excuse for not attending on the return day of the summons, or if he attends and does not show cause to the satisfaction of the Court why he should not be punished for disobedience, the Court may order him to pay such fine, or to be committed to prison for such time as the Court directs.

7. The Court may order that a person committed to prison for disobedience to an order shall be detained in prison till he has obeyed such order in all things that are to be immediately performed and given such security as the Court thinks fit to obey the other parts of the order, if any, at the time or times when they are to be performed.

8. Whenever any such order or commitment shall have been made the Registrar shall issue, under the seal of the Court, a warrant of commitment directed to the proper officer of the Court who by such warrant shall be empowered to take the body of the person against whom such order shall have been made, and all police officers within their several jurisdictions shall aid in the execution of every such warrant, and the gaoler or keeper of every gaol or prison mentioned in any such order shall be bound to receive and keep therein the person against whom such order of commitment shall have been made until he shall be discharged by due course of law.

E. County
Court Rules :
25, 70.

9. Where any person in custody under a warrant desires to apply for his discharge, he shall file an affidavit showing that he has purged or is desirous of purging his contempt, and shall, not less than one clear day before the application is made, serve on the party at whose instance the warrant of attachment was issued, an office copy of the affidavit, together with notice of his intention to make the application.

E.43, 6.

10. In case the respondent against whom a writ of attachment has issued is not and cannot be found, the Court may make an order that a writ of sequestration be issued against his property. The said writ shall bind his immovable property from the date of the order in the same manner, and to the same extent in every respect, as an order for sequestration in a civil action.

11. The writ of sequestration shall be directed to two or more persons to be appointed by the Court for that purpose, who shall be commanded and empowered to enter upon all the immovable property of the person against whom the writ shall issue, and collect, take, and get into their hands not only the rents and profits of his said immovable property, but also all his goods, chattels, and movable property, and detain and keep the same under sequestration in their hands until he shall appear before the Court and purge his contempt, or the Court shall make other order to the contrary. And the Court may order payment out of the proceeds of such sequestration of all charges attending the execution thereof, including such reasonable remuneration to the persons appointed to carry out the same as the Court shall think fit to allow.

12. In all proceedings against any person for disobedience of the order of a Court, the Court before which such proceedings are taken shall make such order as to the costs thereby occasioned as to the Court shall seem just.

13. A writ of attachment shall be in Form 39A, and a writ of sequestration shall be in Form 39B."

3. The principal Rules are hereby amended by the insertion therein of the following Orders immediately after Order 43 :—

" ORDER 43A.

Writ of Possession.

E.47, 1.

1.—(1) Where a judgment or order of a Court for the recovery or delivery of possession of any immovable property is sought to be enforced by a writ of possession, the writ may be issued by leave of the Court or a Judge obtained on an *ex parte* application by the plaintiff supported by an affidavit. The affidavit shall be in Form 39C and the writ in Form 39D.

C.1, 6.

(2) Such leave shall not be given unless it is shown that all persons in actual possession of the whole or any part of the property have received such notice of the proceedings as may be considered sufficient to enable them to apply to the Court for relief or otherwise.

2. Upon any judgment or order for the recovery of any property and costs, there may be either one writ or separate writs of execution for the recovery of possession and for the costs at the option of the successful party. E.47, 3.

3. Every writ of possession shall be passed to a bailiff for execution ; and, where costs are to be recovered under the same writ, the provisions of Order 44 shall be observed in so far as they are applicable except that every writ of possession issued shall be entered in a separate register. C.41, 2. C.44, 2.

ORDER 43B.

Writ of Delivery.

1. Where it is sought to enforce a judgment or order for the recovery or delivery of any movable property by writ of delivery, the Court or a Judge may, upon the *ex parte* application of the plaintiff, order that execution shall issue for the delivery of the property, without giving the defendant the option of retaining the property upon paying its assessed value, if any, and that if the property cannot be found, and unless the Court or a Judge shall otherwise order, the deputy sheriff shall distrain all the movable and immovable property of the defendant till the defendant deliver the property; or, at the option of the plaintiff, that the deputy sheriff cause to be levied, by seizure and sale of the defendant's movable property, the assessed value, if any, of the property which cannot be found. The application for the writ of delivery shall be accompanied by a copy of the judgment or order sought to be enforced. E.48, 1.

2. A writ of delivery shall be in Form 39E ; and when a writ of delivery is issued, the plaintiff shall, either by the same or a separate writ of execution, be entitled to levy, by seizure and sale of the defendant's movable property, the damages and costs awarded, and interest. E.48, 2.

3. Every writ of delivery shall be passed to a bailiff for execution ; and, where damages or costs are to be recovered under the same writ, the provisions of Order 44 shall be observed in so far as they are applicable except that every writ of delivery issued shall be entered in a separate register." C.41, 2. C.44, 2.

4. Appendix B to the principal Rules is hereby amended by the insertion therein of the following forms :—

“ No. 39A.—WRIT OF ATTACHMENT (O. 42A, r. 4).

IN THE DISTRICT COURT OF

(*Title and number of the action*).

To the Deputy Sheriff of _____ and all police officers
in Cyprus.

We command you to attach *C.D.* so as to have him before us in the Court of _____, there to answer to us, as well touching a contempt which he it is alleged has committed against us, as also such other matters as shall be then and there laid to his charge, and further to perform and abide such order as our said Court shall make in this behalf and hereof fail not, and bring this writ with you.

Dated the _____ day of _____, 19 _____.

[L.S.]

(*Signature of Judge*)