

CHAPTER XX Security Procedure

1. Security Summons—(a) Subject to any directions given by the Court, where security is ordered to be given to the satisfaction of the Registrar the party ordered to give security shall take out a summons within 14 days of the date of the order and shall serve the same upon the opposite party.

(b) The summons shall state the name and address of each surety to be tendered and a full and sufficient description of the property to be given as security.

2. Affidavit to Justification—(a) Simultaneously, every person offering himself as a surety shall make and file an affidavit of justification touching the value of his property and the debts and liabilities to which it is subject and also a draft of the bond proposed to be given. Copies of such affidavits and the draft bond will be served alongwith the summons on the opposite party.

(b) Affidavits of justification shall be deemed insufficient unless they state that each person justifying is worth the amount required, over and above what will pay his just debts and over and above every other sum for which he is then surety.

COMMENTS

If for any good reason, the title deeds cannot be deposited, the matter must be reported to the Court for such directions as it may deem fit to give in the circumstances of the case. the Court may order the surety to execute and register a regular mortgage-deed in favour of the Registrar or other officer of the Court or it may, if so consented to by the surety, order attachment of the immovable property of the surety, or the Court may pass such other or further orders according to law as it may deem fit. *M/s. Label Art Press and another v. Indo European Machinery Co. (P) Ltd.*, AIR 1974 Delhi 136.

3. Time for inquiry—Unless time be extended by the Court, the Registrar shall allow or disallow the surety within 60 days of the date of the order requiring security.

4. Production of title deeds etc. and examination—Every person offering himself as surety, shall produce before the Registrar all his title deeds, vouchers and other relevant and necessary documents on the day fixed for his examination. Such person may be examined by the Registrar on oath or solemn affirmation touching the value of his property, and the debts and liabilities to which it is subject. After being examined and allowed, he shall sign the requisite bond and shall deposit his title deeds, vouchers and such other documents as the registrar may require:

Provided that in any case the Registrar may, on good cause shown, dispense with the deposit of some or all of the said documents and may return the same to the surety with an endorsement thereon as follows :

To Whomsoever it May Concern

Take notice that the property to which this document relates stands charged for the payment of a sum of Rs by a bond executed on day of 19 by in suit No of 19 entitled v pending in the High Court of Delhi.

(2) The endorsement referred to in the proviso to sub-rule 1 shall be cancelled by the Registrar when the surety is or stands discharged.

5. Property in respect of which surety may justify—The title deeds may relate to immovable property situate beyond the local limits of the ordinary jurisdiction of the Court, but shall in all cases be in the name of the proposed surety. A surety may justify also in respect of movable property of which he can produce evidence satisfactory to the Registrar, such as, deposit receipts, Government Promissory Notes, or other evidence of title.

6. More than two sureties irregular—A tender of notice of more than two sureties shall not be accepted except by order of the Court.

7. Who may be present at the examination—Except with the specific permission of the Registrar, no person other than the party giving security, the sureties and their respective advocates, the party or parties, if any, on whom notice has been served and his or their advocate or advocates, shall be present at the examination of any surety by the Registrar.

8. Who are not competent sureties—Unless the Court otherwise orders, an advocate practising within the limits of the jurisdiction of the Court, a clerk of such advocate or an officer of the Court, shall not be accepted as surety.

9. Security for costs—If a party is required to give security for costs, unless the Court otherwise orders, the penal sum in the bond shall not be less than one thousand rupees.

10. Custody of securities and security bonds—All papers and records relating to the taking of security, including securities and security bonds, shall be kept by the Registrar in safe custody in his safe in the strong room after making an appropriate entry in a register to be maintained by him for the purpose.