

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*)

## No. 39B.—WRIT OF SEQUESTRATION (O. 42A, r.4).

IN THE DISTRICT COURT OF

*(Title and number of the action).*To *(names of not less than two Commissioners)*

GREETING :

Whereas lately in this Court in the above intituled action (*or matter*) by a judgment (*or order, as the case may be,*) of our said Court made in the said action (*or matter*), and bearing date the        day of        , 19        , it was ordered that the said *C.D.* should (*as the case may be*). Know ye, therefore, that we, in confidence of your prudence and fidelity, have given, and by these presents do give to you, full power and authority to enter upon all the immovable property of the said *C.D.*, and to collect, take and sequester into your hands not only all the rents and profits of his said immovable property, but also all his goods, chattels, and movable property whatsoever ; and therefore we command you, that you do at certain proper and convenient days and hours, go to and enter upon all the immovable property of the said *C.D.*, and that you do collect, take and get into your 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 your hands until the said *C.D.* shall        (*as the case may be*) clear his contempt, and our said Court make other order to the contrary.

Dated the        day of        , 19        .

[L.S.]

*(Signature of Judge)*

## No. 39C.—AFFIDAVIT IN SUPPORT OF APPLICATION FOR WRIT OF POSSESSION (O. 43A, r.1).

IN THE DISTRICT COURT OF

*(Title and number of the action).*I,        of        hereby  
make oath and say as follows :—

1. I am the plaintiff (*or as the case may be*) in the above action in which judgment (*or order*), was given on the        day of        , 19        , in my favour for possession of the property hereinafter described, that is to say,

2. A copy of the said judgment (*or order*) was served on the defendant personally on the day of        , 19        , and the same has not been obeyed.

\*3. On the        day of        , 19        , I sent by prepaid post to *A.B.* and *C.D.*, the persons being in actual possession of the said premises or property, a letter setting out the particulars of the said judgment (*or order*) and asking them to vacate the said premises forthwith (*summarise the contents of the letter*) and stating that in default of vacating the said premises or of any application by them to the Court for relief or otherwise I would proceed to recover possession upon the said judgment (*or order*) without further notice.

\*4. On the        day of        , 19        , I received from *A.B.* and *C.D.* the letter(s) which is/are annexed hereto and marked        .

\* Strike out if inapplicable.

5. I am informed and according to the best of my knowledge and information verily believe (*state source of information and grounds for belief*) that save for the defendant (and) his family and the above-named persons served with notice of these proceedings there is no other person who is in actual possession of the whole or any part of the said premises and who would be entitled to apply to the Court for relief or otherwise (*or as the case may be*). I submit that the defendant (and the above-named persons) has/have received sufficient notice of these proceedings to enable him/them to apply to the Court for relief and I crave leave to issue forthwith a writ for recovery of possession of the said premises (and, *should a plaintiff so desire*, for recovery of the amount due under the said judgment *or order*).

Sworn, etc.

*Note.*—The form should be modified to suit the circumstances of each particular case. When the defendant is the only person in possession, no formal notice is required. Where there are other persons (not parties to the proceedings) in actual possession it is necessary to serve them with such written notice as will give them a reasonable opportunity of applying to the Court.

No. 39D.—WRIT OF POSSESSION (O. 43A, r.1).

IN THE DISTRICT COURT OF

(*Title and number of the action*).

To the Deputy Sheriff of the District of

Whereas by a judgment (*or order*) of this Court, dated the        day of       , 19       , it was adjudged (*or ordered*) that the plaintiff was entitled to possession of the immovable property hereinafter specified, and it was ordered that the defendant should deliver to the plaintiff possession of such property, that is to say,

And whereas the defendant has not obeyed the said judgment (*or order*);

This is therefore to authorize and require you without delay to give possession of the said property to the plaintiff;

*\*(Add, where applicable):* And this is further to authorise and require you of the goods and movable property of the above-named defendant, other than those by law exempted from seizure and sale, to levy by seizure and sale the sum of £       , being the amount due under the said judgment (*or order*), together with interest thereon at the rate of four per cent per annum from the        day of       , 19       , until the day of sale, and also the sum of £       , for costs allowed under the said judgment (*or order*), together with £       , the costs of issuing this writ and together also with the costs of execution; And this is further to require you to pay the moneys so levied by you (other than your costs of execution, which you are at liberty to retain out of the said moneys) into the Court (*or to the said plaintiff or his advocate*).\*

And in what manner you shall have carried out the directions contained in this writ you are to state in writing on the back hereof; and you are to return this writ with such statement thereon to this Court immediately after the execution thereof.

Dated the        day of       , 19       .

[L.S.]

(*Signature of Judge*)

\* Strike out parts inapplicable.

## No. 39E.—WRIT OF DELIVERY (O. 43B, r.1).

IN THE DISTRICT COURT OF

*(Title and number of action).*

To the Deputy Sheriff of the District of

This is to authorise and require you without delay to cause the following movable property, namely *(specify the movable property which the Court has ordered to be recovered of the defendant)*

to be returned to the above-named plaintiff, which the said plaintiff lately recovered against the above-named defendant *(or which the said defendant was ordered to deliver to the said plaintiff)* in this action by a judgment *(or order)* dated the      day of      , 19      .

*(a)* And this is further to authorise and require you, if the above-mentioned movable property cannot be found in your district, to distrain all the movable and immovable property of the defendant, so that neither the said defendant nor anyone for him do lay hands on the same until the said defendant render to the said plaintiff the said movable property. *(a)*

*(b)* And, if the said movable property cannot be found in your district, this is to authorise and require you of the goods and other movable property of the above-named defendant, other than those by law exempted from seizure and sale, to levy by seizure and sale the sum of £      , being the assessed value of the movable property ordered by the aforesaid judgment *(or order)* to be returned by the defendant to the plaintiff. *(b)*

*(c)* And this is further to authorise and require you of the goods and movable property of the defendant, other than those by law exempted from seizure and sale, to levy by seizure and sale the sum of £      , being the amount due under the said judgment *(or order)*, together with interest thereon at the rate of four per cent per annum from the      day of      , 19      , until the day of sale, and also the sum of £      , for costs allowed under the said judgment *(or order)*, together with £      , the costs of issuing this writ and together also with the costs of execution ; And this is further to require you to pay the moneys so levied by you *(other than your costs of execution, which you are at liberty to retain out of the said moneys)* into the Court *(or to the said plaintiff or his advocate)* . *(c)*.

And in what manner you shall have carried out the directions contained in this writ you are to state in writing on the back hereof ; and you are to return this writ with such statement thereon to this Court immediately after the execution thereof.

Dated the      day of      , 19      .

[L.S.]

*(Signature of Judge)*

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- Notes : 1. *(a)—(a)* should be deleted if *(b)—(b)* will form part of this writ.  
 2. *(b)—(b)* should be deleted if the defendant has not been given the option of retaining the movable property by paying its assessed value.  
 3. *(c)—(c)*: Strike out parts inapplicable."

Given under the hand and official seal of the Governor and the hand of the Chief Justice at Nicosia, this 13th day of May, 1954.

(M.P. 1080/51.)

E. HALLINAN,  
Chief Justice.