

PART B — COURTS COMPETENT TO EXECUTE DECREES

1. Section 37 to 39 of the Code of Civil Procedure define the Courts by which a decree may be executed. A decree may be executed by the Court which passed it, or by any Court to which it is transferred for execution. It should be noted that the expression 'Court which passed decree' has been defined in section 37 so as to include certain Courts other than the Court which actually passed the decree.

Courts competent to execute.

2. When a decree is transferred by the Court which passed it to another Court for execution, the documents mentioned in Order XXI, Rule 6, must be sent to the latter Court. The work in connection with the preparation of these documents should be done by Court officials holding permanent appointments, on payment, in the first instance, by the person applying for the transfer of the decree, of a fee of Re. I. The amount so recovered shall be credited to Government under the head 'XXI-A -Law and Justice-Courts of Law-General Fees, Fines and Forfeitures-Fees levied by Courts'.

Transfer of decree fees for preparation of unnecessary documents.

A decree-holder, however, may at his option file with his application a copy of his decree duly stamped in accordance with Article 7 of Schedule I to the Court-fees Act, VII of 1870, and when he does so, he shall be exempted from the fee of Re. I prescribed in this paragraph, the remaining documents being prepared by the officials of the Court without further payment by the decree-holder.

3. A provision has been made in Order XXI, Rule 10, Civil Procedure Code as amended by the Punjab High Court, to enable the decree-holder to apply for immediate execution through the court within whose jurisdiction the judgment-debtor is, by producing merely the decree and an affidavit of non-satisfaction pending the receipt of a formal order of transfer under section 39, Civil Procedure Code.

Execution pending receipt of order of transfer of decree.

4. Where the Court to which a decree is to be sent for execution is situate within the same district as the Court which passed the decree, the Court passing the decree, shall send the same directly to the former Court. But, where the former Court is situate in a different district the Court, which passed the decree, shall send it to the District Court

Channel of transmission of decrees transferred.

of the district in which the decree is to be executed . (Order XXI, Rule 5 of the Code).

Execution of transferred decrees.

5. Under Order XXI, Rule 8, of the Code of Civil Procedure, 1908, a decree sent under the provisions of section 39 for execution to another district may be executed either by the District Court to which it is sent, or by any Subordinate Court of competent jurisdiction to which the District Court may refer it, and, under section 42, the Court executing the decree has the same powers of execution as if the decree had been passed by itself. The execution files of such cases should remain with the record of the Court by which the decree is executed, and should not be returned to the Court by which the decree was passed.

Amount realised on transfer of decrees to be certified and noted.

6. A certificate showing the extent to which the decree has been executed is required, by section 41 of the Code of Civil Procedure, 1908 to be sent to the Court which passed the decree, as to execution so certified, and the particulars should be entered in that Court's register of Civil suits under the head 'Return of Execution' in order to prevent a double execution being taken out in any other district.

Register of decrees transferred and decrees received by transfer.

7. To ensure compliance with order XXI, Rule 6 of the Code the High Court has prescribed a register in form XXXIII of part A.-1V of High Court Rules and Order, Volume VI-A. Decrees transferred to other courts and those received by transfer are shown on the two sides of the same page in the register.