

CHAPTER XXVII

SECURITY

437. Security to be furnished to Prothonotary and Senior Master:- When security is ordered to be furnished, it shall, unless otherwise ordered to be given to the Prothonotary and Senior Master or to such other Officer as the Court or the Judge in Chambers may direct.

438. Notice to be given to the opposite party:- The Prothonotary and Senior Master shall before accepting the security direct notice to issue to the person for whose benefit the security is to be given (hereinafter in this Chapter referred to as the “opposite party”); provided that where the security consists of cash or securities of the Government of India or of the Government of Maharashtra or Bombay Port Trust Bonds or Bombay Municipal Bonds, the issue of notice may be dispensed with.

Unless otherwise ordered or consented to by the opposite party, four days’ notice of the meeting to consider the security shall be given by the party tendering the security to the opposite party.

439. Particulars of security to be furnished:- The party tendering the security shall, along with the notice, furnish to the opposite party particulars of the security proposed to be offered and shall also file the same in the Office of the Prothonotary and Senior Master.

440. Immovable property offered as security:- If the security offered consists of immovable property, inspection of the title deeds of the property shall be given to the opposite party. If the security is accepted by the Prothonotary and Senior Master, the title deeds shall be deposited in the Office of the Prothonotary and Senior Master and the party offering the title deeds shall sign a bond in favour of the Prothonotary and Senior Master.

441. Surety or sureties as security:- (i) If the security required to be furnished is of a bond to be give by a surety or sureties, particulars of the name and address of each surety as also the residence of each surety during the preceding six months and the description of the property which such surety may offer for the purpose of justification shall, along with the notice, be furnished to the opposite party and the same shall also be filed in the Office of the Prothonotary and Senior Master.

(ii) Every person offering himself as a surety shall, unless the opposite party consents to the acceptance of such person as surety, produce before the Prothonotary and Senior Master documents relating to the property which he offers for the purpose of justification and shall make his affidavit in that behalf.

(iii) The affidavit of justification shall be deemed insufficient, unless it states that the 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.

(iv) The Prothonotary and Senior Master may direct that the person justifying be examined on oath touching the value of his property and the debts and liabilities to which he is subject.

(v) Unless otherwise ordered, an offer of more than two sureties shall not be accepted.

(vi) If the surety is accepted, the surety shall sign a bond in favour of the Prothonotary and Senior Master.

442. Companies or corporations as sureties:- A bond given by a company or a corporation, approved by the Chief Justice, may be accepted as security. The Prothonotary and Senior Master shall maintain a list of companies and corporations approved for this purpose by the Chief Justice.

443. Assignment of Bond:- The Court or the Judge in Chambers may order the Prothonotary and Senior Master to assign the bond to any person for the purpose of suing on the same, on such terms as it or he may think fit.

444. Rules in this Chapter relating to Prothonotary to apply to other officers:- When security is ordered to be given to an officer other than the Prothonotary and Senior Master the provisions in this Chapter relating to the Prothonotary and Senior Master shall, with any necessary modifications, apply to such other officer.
