

Divorce Act, 1869

Chapter 6 - Protection-orders

Any wife to whom section 4 of the Indian Succession Act, 1865 (10 of 1865)¹ does not apply, may, when deserted by her husband, present a petition to the District Court² [***], at any time after such desertion, for an order to protect any property which she may have acquired or may acquire, and any property of which she may have become possessed or may become possessed after such desertion, against her husband or his creditors, or any person claiming under him.

1. See now, the Indian Succession Act, 1925 (39 of 1925).
 2. The words "or the High Court" omitted by Act 51, 2001, section 18 (w.e.f. 3-10-2001).
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Section 28 - Court may grant protection-order

The Court, if satisfied of the fact of such desertion, and that the same was without reasonable excuse, and that the wife is maintaining herself by her own industry or property, may make and give to the wife an order protecting her earnings and other property from her husband and all creditors and persons claiming under him. Every such order shall state the time at which the desertion commenced, and shall, as regards all persons dealing with the wife in reliance thereon, be conclusive as to such time.

Section 29 - Discharge or variation of orders

The husband or any creditor of, or person claiming under him, may apply to the Court by which such order was made for the discharge or variation thereof, and the Court, if the desertion has ceased, or if for any other reason it thinks fit so to do, may discharge or vary the order accordingly.

Section 30 - Liability of husband seizing wife's property after notice of order

If the husband, or any creditor of, or person claiming under, the husband, seizes or continues to hold any property of the wife after notice of any such order, he shall be liable, at the suit of the wife (which she is hereby empowered to bring), to return or deliver to her the specific property, and also to pay her a sum equal to double its value.

Section 31 - Wife's legal position during continuance of order

So long as any such order of protection remains in force the wife shall be and be deemed to have been, during such desertion of her, in the like position in all respects, with regard to property and contracts and suing and being sued, as she would be under this Act if she obtained a decree of judicial separation.
