

**Precedent No. 6**

**AFFIDAVIT: UNDER ORDER XXXVII, RULE 5 OF THE CODE OF CIVIL  
PROCEDURE, 1908**

BEFORE THE HON'BLE CIVIL COURT

Interlocutory Application No.... of 20

In

Original Suit No..... of 20

**IN THE MATTER OF:**

A.B.

....PETITIONER

VERSUS

B.C

.....COUNTER PETITIONER

**AFFIDAVIT**

I ....., S/o ....., aged .....,residing  
at.....

The deponent abovenamed hereby solemnly affirms and declares as under:

1. The deponent is the Managing Partner and authorised signatory of .....the petitioner in the application and the plaintiff in the suit referred to above. The deponent is fully conversant with the facts and circumstances of the case and stands competent to swear to this affidavit on behalf of the petitioner. The deponent will be referred to as the petitioner hereinafter.
2. The suit is filed for recovery of an amount of Rs ..... with future interest from the counter-petitioner who owes the money to the petitioner. The amount is due under a promissory-note executed by the counter-petitioner in favour of the petitioner, which note is produced alongwith the plaint as document No. 1.
3. Inspite of repeated requests made by the petitioner, the counter-petitioner did not care to effect payment or settle the account, which necessitated the filing of the suit.
4. Before filing the suit, the petitioner had sent a legal notice to the counter-petitioner through its lawyers M/s..... A reply containing false and frivolous contentions was sent by the counter-petitioner, without remitting the amount. At the

same time, he started taking steps for disposing of the stock in trade kept in his business premises at the address given above with a view to siphoning off the sale proceeds into his private and concealed coffers for screening it from creditors like the petitioner. His attempt is to remove those goods, dispose of the same and then start a business in the name of his son thereby effectively defeating a creditor like the petitioner. The petitioner has come to know of the said threatened plans of the counter-petitioner two days ago when he made discrete enquiries through his agent, from dependable sources.

5. For the various reasons mentioned in the plaint, the suit is likely to be decreed in favour of the petitioner in terms of the plaint. If pending disposal of the same, the counter-petitioner is allowed to do the threatened act, it will cause irreparable loss, injury and hardship to the petitioner, incapable of being remedied by way of damages. Moreover, the counter-petitioner does not have any other property or assets, movable or immovable, in his ownership or possession. The petitioner will be left high and dry, if the threatened acts are allowed to go unchecked. Therefore, the counter-petitioner has to be restrained from doing so. 6. It is, therefore, just and necessary that this Hon'ble Court within a time to be stipulated by this Hon'ble Court, issue notice as to why he should not be asked to furnish security for an amount of Rs..... necessary for satisfying the decree that is likely to be passed against him in the present suit, or the scheduled properties to be attached and removed to the premises of this Court and, in the meantime, to order interim attachment and removal to this Hon'ble Court's custody of the movable items belonging to the counter-petitioner and detailed in the schedule attached as prayed for in the accompanying application.

*Sd./*

Deponent.

### **VERIFICATION**

Verified at ..... on this the ..... day of ....., 20 ..... that the contents of the above affidavit are true and correct to the best of my knowledge and belief and nothing material has been concealed therefrom.

*Sd./*

Deponent.

Solemnly affirmed and signed before me by the deponent, who is personally known to me, on this the ..... day of....., 20 .....

*Sd./*

Counsel for the deponent.

**Note.**—Affidavit to be attested by the appropriate authority prescribed under law.

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