
STATUTORY RULES OF NORTHERN IRELAND

1981 No. 225

County Court Rules (Northern Ireland) 1981

ORDER 25

Hearing and re-hearing

PART I

HEARING BY JUDGE

General

1. At the hearing of any action or other proceeding the judge may hear the whole matter of the action or proceeding and give a decree thereon or grant any relief, redress, or remedy or make any order or give any direction he considers necessary to enable him to give a final decree on a day to which the hearing is adjourned.

Where proper parties are not before the court

2. Where at the hearing it appears to the judge that there are any claims, estates, titles, rights, duties or liabilities upon which he cannot adjudicate by reason of all the proper parties not being before the court, he may order such parties to be made plaintiffs or defendants upon such terms as to adjournment, notices and costs as he thinks fit.

Where plaintiff does not appear or does not prove his claim

3.—(1) If a plaintiff does not proceed with his civil bill or does not appear at the hearing of an action or other proceeding, the action or other proceeding may be struck out or dismissed without prejudice to the plaintiffs proceeding by a new civil bill or other originating process.

(2) Where a plaintiff appears at the hearing of an action or other proceeding but fails to establish his case to the satisfaction of the judge, the judge may dismiss the action or other proceeding either without prejudice to the plaintiffs proceeding by a new civil bill or other originating process or on the merits as he thinks just.

(3) Where an action or other proceeding has been dismissed without prejudice and a subsequent action or other proceeding for the same or substantially the same cause of action is brought before payment of any costs payable under the dismissal, the judge may stay the subsequent action or other proceeding until such costs have been paid.

Decree where defendant does not appear

4.—(1) If the defendant (not being the Crown) does not appear, the judge, upon proof of service and of facts entitling the plaintiff to relief, may, subject to paragraphs (2) to (4), give such decree or make such order as he considers just, and an endorsement of service or an affidavit of service or, where Order 6 Rule 3(2)(b) or Rule 3(7) applies the solicitor's certificate referred to in Rule 12 of Order 6 may be accepted as proof of service.

(2) If the Crown does not appear on the hearing of any civil bill in which it is a defendant, the civil bill shall be adjourned to a date fixed by the judge, on such terms as to him may seem just.

(3) Notice of the date fixed shall be served upon the Crown in a manner to be directed by the judge, and shall set out that the case will be heard on the date named and such decree given or other order made as to the judge may seem just, the Crown's absence notwithstanding.

(4) If the Crown does not appear on the adjourned hearing the judge may, upon proof of service of such notice, proceed to hear and determine the case and may give such judgment or make such other order as to him may seem just.

If proceedings discontinued, etc., counterclaim may proceed

5. Where the defendant sets up a counterclaim and the claim of the plaintiff is discontinued, struck out, stayed or dismissed, the counterclaim may be proceeded with and the defendant, on proof thereof, may have a decree.

Non-appearance on a counterclaim

6. If a person, not originally a party to the proceedings, who has been served with a counterclaim does not appear at the hearing, the judge may proceed with the hearing and may give such decree or make such order as may be just against the person so served, or may adjourn the hearing and give such directions as he thinks fit.

Exclusion of counterclaim

7. Where the judge is of opinion that a counterclaim would be better disposed of in independent proceedings, the judge may of his own motion or on the application of any party order the counterclaim to be excluded.

Decree where counterclaim is established

8.—(1) Where a counterclaim is established against the claim of the plaintiff and there is a balance in favour of one of the parties the judge may grant a decree in Form 139; but such a decree shall not be made in a case where Order 21 Rule 4(1)(a) applies.

(2) Subject to Order 21 Rule 4(1)(a), nothing in paragraph (1) shall affect the discretion of the judge to award costs in such proportions as he thinks fit.

Misjoinder of plaintiff not to defeat counterclaim

9. Where any person has been improperly or unnecessarily joined as a plaintiff, a defendant who has set up a counterclaim may proceed with the counterclaim against the other plaintiff.

Vexatious or irrelevant question

10. The judge may disallow any question put in cross-examination to any party or witness which appears to the judge to be vexatious or irrelevant.

Decision of questions without general order for execution of trusts, etc.

11. It shall not be obligatory on the judge in any proceedings—
- (a) for the administration of the estate of a deceased person; or
 - (b) for the execution of a trust;

to give a decree or make an order for the general administration of the estate or execution of the trust, if the questions between the parties can be properly determined without such decree or order.

Injunctions

12.—(1) In any proceedings in Which an injunction has been or might have been claimed, a plaintiff may, before or after decree, apply for an injunction to restrain the defendant from—

- (a) the repetition or continuance of the wrongful act or breach of contract complained of, or
- (b) the commission of any wrongful act or breach of contract of a like kind, relating to the same property or right or arising out of the same contract;

and the judge, in addition to giving a decree for such damages and costs as the plaintiff may be entitled to, may grant the injunction on such terms as may be just.

(2) An application under this Rule may be made—

- (a) before the hearing of the action or matter in accordance with Order 14 Rule 6; or
- (b) at or immediately after the hearing, in which case the order shall be included in the decree; or
- (c) after decree, on notice and supported by affidavit.

Inspection by judge

13. The judge may inspect any property or thing concerning which any question may arise in any proceedings.