

New York's Domestic Relations Statutes

§ 233. Sequestration of defendant's property in action for divorce, separation or annulment where defendant cannot be personally served.

Where in an action for divorce, separation, annulment or declaration of nullity of a void marriage it appears to the court that the defendant is not within the state, or cannot be found therein, or is concealing himself or herself therein, so that process cannot be personally served upon the defendant, the court may at any time and from time to time make any order or orders without notice directing the sequestration of his or her property, both real and personal and whether tangible or intangible, within the state, and may appoint a receiver thereof, or by injunction or otherwise take the same into its possession and control.

The property thus sequestered and the income therefrom may be applied in whole or in part and from time to time, under the direction of the court and as justice may require, to the payment of such sum or sums as the court may deem it proper to award, by order or judgment as the case may be, and during the pendency of the action or at the termination thereof, for the education or maintenance of any of the children of a marriage, or for the support of a spouse, or for his or her expenses in bringing and carrying on said action and the proceedings incidental thereto or connected therewith; and if the rents and profits of the real estate, together with the other property so sequestered, be insufficient to pay the sums of money required, the court, upon such terms and conditions as it may prescribe, may direct the mortgage or sale of sufficient of said real estate to pay such sums. The court may appoint the plaintiff spouse receiver or sequestrator in such cases.

The court may authorize such spouse to use and occupy, free of any liability for rent or use and occupation or otherwise, any house or other suitable property of the defendant spouse as a dwelling for himself or herself with or without the children of the marriage, and may likewise turn over to the plaintiff spouse for the use of such spouse with or without the children of the marriage any chattel or chattels of the defendant spouse. The relief herein provided for is in addition to any and every other remedy to which a spouse may be entitled under the law.