

# **ANNEXURES**



**ANNEXURE II**

**TIME SCHEDULE AS GIVEN UNDER THE CODE OF CIVIL PROCEDURE AFTER THE 1999 AND 2002 AMENDMENTS W.E.F. 01-07-2002**

<i>No</i>	<i>Step</i>	<i>Time Frame</i>
1	Issue and Service of Summons (s.27)	30 days from the date of institution of suit
2	Enlargement of time (s.148)	30 days in total
3	Furnishing of copies of plaint for service on the defendant and process fee for the same (O.7 R.9)	7 days from the date on which summons are ordered to be issued
4	Written Statement (O.5(1)(1) and O.8 R.1]	30 days from the date of service of summons, and can be extended up to 90 days
5	Filing of subsequent pleadings [O.8 R.9]	Maximum 30 days
6	Application for fresh summons [O.9 R.5(1)]	7 days from the date of return of the previous summons
7	For passing orders on an application seeking leave to deliver interrogatories [O.11 R.2]	7 days from the date of application
8	For admitting documents [O.12 R.2]	7 days from the date of service of the notice
9	For examination of witness or production of documents before framing issues [O.14 R.4]	7 days maximum
10	For filing application for issue of witness summons [O.16 R.1(4)]	5 days from the date of filing the list of witnesses
11	For payment of batta etc. for summoning witnesses [O.16 R.2(1)]	7 days from the date of making application for issue of witness summons
12	Adjournment [O.17 R.1(1) proviso]	Maximum 3 adjournments during the hearing of a suit
13	Submission of report of Commissioner appointed for recording evidence [O.18 R.4(5)]	60 days from the date of issue of commission unless extended by Court
14	Arguments [O.18 R.2(3D)]	Time limit for oral arguments shall be fixed by court in its discretion
15	Judgment [O.20 R.1(1)]	30 days from the day on which the hearing is concluded and 60 days in exceptional or or extraordinary circumstances
16	Preparation of Decree [O.20 R.6A(1)]	15 days from the date of judgment
17	For making deposit with an application under O.21 R.89 [O.21 R.92(2)]	60 days from the date of sale

## ANNEXURES III

### AMENDMENTS TO THE CODE OF CIVIL PROCEDURE, 1908 BY ACTS 46 OF 199 AND 22 OF 2002 W.E.F. 01-07-2002

#### INSTITUTION OF SUITS

##### **26. Institution of suits.-**

(1) <sup>1</sup> Every suit shall be instituted by the presentation of a plaint or in such other manner as may be prescribed.

(2) <sup>2</sup> *In every plaint, facts shall be proved by affidavit.*

#### Summons and discovery

##### **27. Summons to defendants.-**

Where a suit has been duly instituted, a summons may be issued to the defendant to appear and answer the claim and may be served in manner prescribed <sup>3</sup> *on such day not beyond thirty days from date of the institution of the suit*

##### **32. Penalty for default.-**

The Court may compel the attendance of any person to whom a summons has been issued under section 30 and for that purpose may

- (a) issue a warrant for his arrest;
- (b) Attach and sell his property;
- (c) Impose a fine upon him not exceeding <sup>4</sup> *five thousand rupees*;
- (d) Order him to furnish security for his appearance and in default commit him to the civil prison.

##### **39. Transfer of decree.-**

(1) The Court which passed a decree may, on the application of the decree-holder, send it for execution to another Court <sup>1</sup> [*of competent jurisdiction*],

(a) if the person against whom the decree is passed actually and voluntarily resides or carries on business, or personally works for gain, within the local limits of the jurisdiction of such other Court, or

(b) if such person has not property within the local limits of the jurisdiction of the Court which passed the decree sufficient to satisfy such decree and has property within the local limits of the jurisdiction of such other Court, or

(c) if the decree directs the sale or delivery of immovable property situate outside the local limits of the jurisdiction of the Court which passed it, or

(d) if the Court which passed the decree considers for any other reason, which it shall record in writing, that the decree should be executed by such other Court.

(2) The Court which passed a decree may of its own motion send it for execution to any subordinate Court of competent jurisdiction.

<sup>1</sup>[(3) *For the purposes of this section, a Court shall be deemed to be a Court of competent jurisdiction if, at the time of making the application for the transfer of decree to it, such Court would have jurisdiction to try the suit in which such decree was passed.*]

(4) <sup>2</sup> *Nothing in this section shall be deemed to authorise the court which passed a decree to execute such decree against any person or property outside the local limits of its jurisdiction*

#### **58. Detention and release.-**

(1) Every person detained in the civil prison in execution of a decree shall be so detained,-

(a) where the decree is for the payment of a sum of money exceeding <sup>1</sup>[ <sup>2</sup> five thousand rupees, for a period not exceeding three months, and]

(b) <sup>3</sup> where the decree is for the payment of a sum of money exceeding two thousand rupees, but not exceeding five thousand rupees, for a period not exceeding six weeks

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<sup>1</sup> Ins. by Act 104 of 1976, sec. 18 (w.e.f. 1-2-1977)

<sup>1</sup> Ins. by Act 104 of 1976, sec. 22, (w.e. f. 1-2-1977).

<sup>2</sup> Substituted by Sec 5 of Act 46 of 1999, w.e.f. 1.7.2002

own benefit, whether the same be held in the name of the judgment-debtor or by another person in trust for him or on his behalf:

Provided that the following particulars shall not be liable to such attachment or sale, namely: -

(a) the necessary wearing-apparel, cooking vessels, beds and bedding of the judgment-debtor, his wife and children, and such personal ornaments as, in accordance with religious usage, cannot be parted with by any woman;

(b) tools of artisans, and, where the judgment-debtor is an agriculturist, his implements of husbandry and such cattle and seed-grain as may, in the opinion of the Court, be necessary to enable him to earn his livelihood as such, and such portion of agricultural produce or of any class of agricultural produce as may have been declared to be free from liability under the provisions of the next following section;

(c) houses and other buildings (with the materials and the sites thereof and the land immediately appurtenant thereto and necessary for their enjoyment) belonging to <sup>1</sup> [*an agriculturist or a labourer or a domestic servant*] and occupied by him;

(d) books of account;

(e) a mere right to sue for damages;

(f) any right of personal service;

(g) stipends and gratuities allowed to pensioners of the Government <sup>1</sup> [*or of a local authority or of any other employer*], or payable out of any service family pension fund <sup>2</sup> [ ... ] notified in the Official Gazette by <sup>3</sup> [*the Central Government or the State Government*] in this behalf, and political pension;

<sup>1</sup> the wages of labourers and domestic servants, whether payable in money or in kind; <sup>2</sup> [ ... ]

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<sup>1</sup> Subs by Act 9 of 1937, sec. 2, for the former clauses (h) and (i). The amendments made by that section have no effect in respect of any proceedings arising out of a suit instituted before 1st June, 1937, see Act 9 of 1937, sec.3.

<sup>2</sup> The words " and salary, to the extent of the first hundred rupees and one-half the remainder of such salary" omitted by Act 5 of 1943, sec.2.

<sup>1</sup> [(i) salary to the extent of<sup>2</sup> [the first<sup>3</sup> [ <sup>4</sup>one thousand rupees ] and two-third of the remainder] <sup>5</sup>[in execution of any decree other than a decree for maintenance];

<sup>6</sup>[Provided that where any part of such portion of the salary as is liable to attachment has been under attachment, whether continuously or intermittently, for a total period of twenty-four months, such portion shall be exempt from attachment until the expiry of a further period of twelve months, and, where such attachment has been made in execution of one and the same decree, shall, after the attachment has continued for a total period of twenty-four months, be finally exempt from attachment in execution of that decree ;]

<sup>6</sup> [(ia) one-third of the salary in execution of any decree for maintenance ;]

<sup>6</sup> [(j) the pay and allowances of persons to whom the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950), or the Navy Act, 1957 (62 of 1957), applies ;]

(k) all compulsory deposits and other sums in or derived from any fund to which the Provident Funds Act, <sup>1</sup> [1925] (19 of 1925), for the time being applies in so far as they are declared by the said Act not to be liable to attachment;

<sup>2</sup> [(ka) all deposits and other sums in or derived from any fund to which the Public Provident Fund Act, 1968 (23 of 1968), for the time being applies, in so far as they are declared by the said Act as not to be liable to attachment;

(kb) all moneys payable under a policy of insurance on the life of the judgment-debtor;

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<sup>3</sup> Subs. by Act 104 of 1976, sec. 23 for certain words (w.e.f. 1-2-1977)

<sup>4</sup> Substituted by Sec 6 of Act 46 of 1999, w.e.f. 1.7.2002

<sup>5</sup> Ins. by Act 66 of 1956, sec. 6.

<sup>6</sup> Subs. by Act 104 of 1976, sec. 23

<sup>1</sup> Subs. by Act 9 of 1937, sec. 2, for "1897"

<sup>2</sup> Ins. by Act 104 of 1976, sec. 23 (w.e.f. 1-2-1977)

(kc) the interest of lessee of a residential building to which the provisions of law for the time being in force relating to control of rents and accommodation apply;]

<sup>1</sup> [(1) any allowance forming part of the emoluments of any <sup>3</sup>[servant of the Government] or of any servant of a railway company or local authority which the <sup>3</sup>[appropriate Government] may by notification in the Official Gazette declare to be exempt from attachment, and any subsistence grant for allowance made to <sup>4</sup>[any such servant] while under suspension ;]

(m) an expectancy of succession by survivorship or other merely contingent or possible right or interest;

(n) a right to future maintenance;

(o) any allowance declared by <sup>1</sup>[any Indian law] to be exempt from liability to attachment or sale in execution of a decree; and

(p) where the judgment-debtor is a person liable for the payment of land revenue; any movable property which, under any law for the time being applicable to him, is exempt from sale for the recovery of an arrear of such revenue.

<sup>2</sup> [Explanation I.- The moneys payable in relation to the matters mentioned in clauses (g), (h), (i) (ia), (J)' (l) and (o) are exempt from attachment or sale, whether before or after they are actually payable, and, in the case of salary, the attachable portion thereof is liable to attachment, whether before or after it is actually payable.]

<sup>3</sup> [ <sup>4</sup> [Explanation II.- In clauses (i) and (ia),] "salary" means the total monthly emoluments, excluding any allowance declared exempt from attachment under the provisions of clause (l), derived by a person from his employment whether on duty or on leave.]

<sup>1</sup> [Explanation. <sup>2</sup> [III]—In clause (l) "appropriate Government" means

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<sup>3</sup> Subs. by Act 5 of 1943 sec.2 for "public officer".

<sup>4</sup> Subs. by Act 5 of 1943 sec 2, for "any such officer or servant"

<sup>1</sup> Subs. By Act A.O. 1937, for " any law passed under the Indian Councils Acts, 1861 and 1892"

<sup>2</sup> Subs. by Act 104 of 1976, sec. 23, for Explanation I (w.e.f. 1-2-1977).

<sup>3</sup> Ins by Act 9 of 1937, sec 2 for the former clauses (h) and (i). The amendments made by that section have no effect in respect of any proceedings arising out of a suit instituted before 1st June, 1937, see Act 9 of 1937, sec.3.

<sup>4</sup> Subs. by Act 104 of 1976, sec. 23, for certain words (w.e.f. 1-2-1977).

<sup>1</sup> Ins. By the A.O. 1937

(i) as respect any <sup>3</sup>[person] in the service of the Central Government, or any servant of <sup>4</sup>[a Railway Administration] or of a cantonment authority or of the port authority of a major port, the Central Government;

<sup>5</sup>[ ... ]

(iii) as respects any other <sup>6</sup>[servant of the Government] or a servant of any other <sup>7</sup>[ local authority, the State Government.]

<sup>7</sup> [Explanation IV.- For the purposes of this proviso, "wages" includes bonus and "labourer" includes a skilled, unskilled or semi-skilled labourer.

**Explanation V.-** For the purposes of this proviso, the expression "agriculturist" means a person who cultivates land personally and who depends for his livelihood mainly on the income from agricultural land, whether as owner, tenant, partner, or agricultural labourer.

**Explanation VI.-** For the purposes of Explanation V, an agriculturist shall be deemed to cultivate land personally, if he cultivates land

(a) by his own labour, or

(b) by the labour of any member of his family, or

(c) by servants or labourers on wages payable in cash or in kind (not being as a share of the produce), or both.]

<sup>8</sup> [(1A) Notwithstanding anything contained in any other law for the time being in force, an agreement by which a person agrees to waive the benefit of any exemption under this section shall be void.]

(2) Nothing in this section shall be deemed <sup>1</sup>[...] to exempt houses and other buildings (with the materials and the sites thereof and the lands immediately appurtenant thereto

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<sup>2</sup> Subs. by Act 104 of 1976, sec. 23, for "3" (w.e.f. 1-2-1977)

<sup>3</sup> Subs. by Act 5 of 1973, sec. 2, for "public officer"

<sup>4</sup> Subs by the A.O. 1950, for "a Federal Railway".

<sup>5</sup> Clause (ii) omitted by the A.O. 1948.

<sup>6</sup> Ins. by Act 104 of 1976, sec. 23 (w.e.f. 1-2-1977)

<sup>7</sup> The word 'railway or' omitted by the A.O. 1950.

<sup>8</sup> Ins. by Act 104 of 1976, sec. 23 (w.e.f. 1-2-1977).

<sup>1</sup> " the word "or", and clause (b) rep. by Act 10 Of 1914, sec.3 and Sch.II.

and necessary for their enjoyment) from attachment or sale an execution of decrees for rent of any such house, building, site or land. <sup>1</sup> [...]

#### **64.Private alienation of property after attachment to be void.-**

<sup>2</sup> Where an attachment has been made, any private transfer or delivery of the property attached or of any interest therein and any payment to the judgment-debtor of any debt, dividend or other moneys contrary to such attachment, shall be void as against all claims enforceable under the attachment. *Nothing in this section shall apply to any private transfer or delivery of the property attached or of any interest therein, made in pursuance of any contract for such transfer or delivery entered, into and registered before the attachment*

**Explanation.**—For the purposes of this section, claims enforceable under an attachment include claims for the ratable distribution of assets

#### **89.Arbitration.-**

**[Repealed by the Arbitration Act, 1940 (10 of 1940), sec. 49 and Sch.III**

<sup>3</sup> *Settlement of disputes outside the Court.—(1) Where it appears to the Court that there exist elements of a settlement which may be acceptable to the parties, the Court shall formulate the terms of settlement and give them to the parties for their observations and after receiving the observations of the parties, the Court may reformulate the terms of a possible settlement and refer the same for—*

*(a) arbitration;*

*(b) conciliation;*

*(c) judicial settlement including settlement through Lok Adalat; or*

*(d) mediation.*

*(2) Where a dispute has been referred—*

*(a) for arbitration or conciliation, the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) shall apply as if the proceedings for arbitration or conciliation were referred for settlement under the provisions of that Act;*

*(b) to Lok Adalat, the Court shall refer the same to the Lok Adalat in accordance with the provisions of sub-section (1) of section 20 of the Legal Services Authority Act, 1987 (39 of 1987) and all other provisions of that Act shall apply in respect of the dispute so referred to the Lok Adalat;*

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<sup>2</sup> Section 64 renumbered as sub-section (1) by Section 3 of Act 22 of 2002

<sup>3</sup> Inserted by Section 7 of Act 46 of 1999, w.e.f. 1.7.2002

*(c) for judicial settlement, the Court shall refer the same to a suitable institution or person and such institution or person shall be deemed to be a Lok Adalat and all the provisions of the Legal Services Authority Act, 1987 (39 of 1987) shall apply as if the dispute were referred to a Lok Adalat under the provisions of that Act;*

*(d) for mediation, the Court shall effect a compromise between the parties and shall follow such procedure as may be prescribed."*

**comments :**

*If a court finds that there are certain elements of settlement in the dispute which may be acceptable to the parties, then it can formulate the terms of settlement and give them to the parties for their observations and after getting a nod from the parties it can refer the dispute for (i) arbitration, (ii) conciliation, (iii) judicial settlement (through Lok Adalat) or (iv) mediation.*

**95.Compensation for obtaining arrest, attachment or injunction on insufficient grounds.-**

(1) Where, in any suit in which an arrest or attachment has been affected or a temporary injunction granted under the last preceding section,—

(a) it appears to the Court that such arrest, attachment or injunction was applied for on insufficient grounds, or

(b) the suit of the plaintiff fails and it appears to the Court that there was no reasonable or probable grounds for instituting the same, the defendant may apply to the Court, and the Court may, upon such application, award against the plaintiff by its order such amount, not exceeding not exceeding <sup>1</sup>*fifty thousand rupees*, as it deems a reasonable compensation to the defendant for the <sup>2</sup>*[expense or injury (including injury to reputation) caused to him]*:

Provided that a Court shall not award, under this section, an amount exceeding the limits of its pecuniary jurisdiction.

(2) An order determining any such application shall bar any suit for compensation in respect of such arrest, attachment or injunction.

**PART VII**

**APPEALS**

**96.Appeal from original decree.-**

<sup>1</sup> Substituted by Section 8 of Act 46 of 1999, w.e.f. 1.7.2002

<sup>2</sup> Subs. by Act 104 of 1976, sec. 32, for "expense or injury caused to him" (w.e.f. 1-2-1977)

(1) Save where otherwise expressly provided in the body of this Code or by any other law for the time being in force, an appeal shall lie from every decree passed by any Court exercising original jurisdiction to the Court authorized to hear appeals from the decisions of such Court.

(2) An appeal may lie from an original decree passed *ex parte*.

(3) No appeal shall lie from a decree passed by the Court with the consent of parties.

<sup>1</sup>[<sup>4</sup> No appeal shall lie, except on a question of law, from a decree in any suit of the nature cognizable by Courts of Small Causes, when the amount or value of the Subject-matter of the original suit does not exceed <sup>2</sup> ten thousand rupees.]

#### **100A.No further appeal in certain cases.-**

<sup>3</sup> Notwithstanding anything contained in any Letters Patent for any High Court or in any other instrument having the force of law or in any other law for the time being in force,—  
(a) where any appeal from an original or appellate decree or order is heard and decided,  
(b) where any writ, direction or order is issued or made on an application under article 226 or article 227 of the Constitution, by a single Judge of High Court, no further appeal shall lie from the judgment, decision or order of such Single Judge.

<sup>4</sup> Notwithstanding anything contained in any Letters Patent for any High Court or in any instrument having the force of law or in any other law for the time being in force, where any appeal from an original or appellate decree or order is heard and decided by a single Judge of a High Court, no further appeal shall lie from the judgment and decree of such single Judge.

#### **102.No second appeal in certain suits.-**

<sup>1</sup> No second appeal shall lie from any decree, when the amount or value of the subject-matter of the original suit does not exceed twenty-five thousand rupees.

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<sup>1</sup> Ins. by Act 104 of 1976, sec. 33, *ibid.* (w.e.f. 1-2-1977)

<sup>2</sup> Substituted by Section 9 of Act 46 of 1999, w.e.f. 1.7.2002

<sup>3</sup> Substituted by Section 10 of Act 46 of 1999, w.e.f. 1.7.2002

<sup>4</sup> Substituted by Section 4 of Act 22 of 2002

<sup>1</sup> Substituted by Section 11 of Act 46 of 1999, w.e.f. 1.7.2002

**Comments :**

If the amount or value of the subject-matter of the original suit is not more than 25,000 rupees then no second appeal can be filed.

**115.Revision.-**

<sup>2</sup>[(1)] The High Court may call for the record of any case which has been decided by any Court subordinate to such High Court and in which no appeal lies thereto, and if such subordinate Court appears-

- (a) to have exercised a jurisdiction not vested in it by law, or
- (b) to have failed to exercise a jurisdiction so vested, or
- (c) to have acted in the exercise of its jurisdiction illegally or with material irregularity,

the High Court may make such order in the case as it thinks fit:

<sup>3 4</sup> [*Provided that the High Court shall not, under this section, vary or reverse any order made, or any order deciding an issue, in the course of a suit or other proceeding, except where- the order, if it had been made in favour of the party applying for revision, would have finally disposed of the suit or other proceeding.*]

<sup>3</sup> [(2) *The High Court shall not, under this section, vary or reverse any decree or order against which an appeal lies either to the High Court or to any Court subordinate thereto.*]

<sup>5</sup>(3) A revision shall not operate as a stay of suit or other proceeding before the court except where such suit or other proceedings is stayed by the High court

**Explanation.-** *In this section, the expression it any case which has been decided includes any order made, or any order deciding an issue, in the course of a suit or other proceeding.]*

**148.Enlargement of time.-**

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<sup>2</sup> Section 115 re-numbered as sub-section (1) of that section by Act 104 of 1976. sec. 43 (w e.f. 1-2-1977).

<sup>3</sup> Ins. By Act 104 of 1976, sec.43 (w.e.f. 1-2-1977)

<sup>4</sup> Substituted by Section 12 of Act 46 of 1999 , w.e.f. 1.7.2002

<sup>5</sup> Inserted by Section 12 of Act 46 of 1999 , w.c.f. 1.7.2002

Where any period is fixed or granted by the Court for the doing of any act prescribed or allowed by this Code, the Court may, in its discretion, from time to time, enlarge such period <sup>1</sup> not exceeding thirty days in total, even though the period originally fixed or granted may have expired.

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<sup>1</sup> Inserted by Section 13 of Act 46 of 1999 , w.e.f. 1.7.2002

# Amendment to Orders

## ORDER IV

### INSTITUTION OF SUITS

#### 1.Suit to be commenced by plaint.-

(1) Every suit shall be instituted by presenting a plaint to the Court or such officer as it appoints in this behalf.

(2) Every plaint shall comply with the rules contained in Orders VI and VII, so far as they are applicable.

As amended by CPC 1999 Amendment Act

#### 1.Suit to be commenced by plaint.-

(1) Every suit shall be instituted by presenting a plaint in duplicate <sup>1</sup>to the Court or such officer as it appoints in this behalf.

(2) Every plaint shall comply with the rules contained in Orders VI and VII, so far as they are applicable.

(3) The plaint shall not be deemed to be duly instituted unless it complies with the requirements specified in sub-rules (1) and (2).<sup>2</sup>

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<sup>1</sup> Ins. By Sec. 14 of Act 46 of 1999

<sup>2</sup> Ibid.

## ORDER V

### ISSUE AND SERVICE OF SUMMONS

#### Issue of Summons

##### 1.Summons.-

(1) When a suit has been duly instituted a summons may be issued to the defendant to appear and answer the claim on a day to be therein specified.

Provided that no such summons shall be issued when the defendant has appeared at the presentation of the plaint and admitted the plaintiff's claim:

<sup>3</sup>*[Provided further that where a summons has been issued, the Court may direct the defendant to file the written statement of his defence, if any, on the date of his appearance and cause an entry to be made to that effect in the summons.]*

As amended by Section 6 of Act 22 of 2002

##### 1.Summons.-

[(1) When a suit has been duly instituted, a summons may be issued to the defendant to appear and answer the claim and to file the written statement of his defence, if any, with **thirty days** from the date of service of summons of the defendant..]<sup>4</sup>

Provided that no such summons shall be issued when the defendant has appeared at the presentation of the plaint and admitted the plaintiff's claim:

*[Provided further that where the defendant fails to file the written statement within the said period of thirty days, he shall be allowed to file the same on such other day as may be specified by the court, for reasons to be recorded in writing, but which not shall not be later than **ninety days** from the date of service of summons.]*

Rule 9 before Amendment

#### Service of Summons

##### 9.Delivery or transmission of summons for service.-

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<sup>3</sup> *Ins. by Act 104 of 1976, sec. 55 (w.e.f. 1-2-1977*

<sup>4</sup> Subs. By Sec.6 of the of Act 22 of 2002

(1) Where the defendant resides within the jurisdiction of the Court in which the suit is instituted, or has an agent resident within that jurisdiction who is empowered to accept the service of the summons, the summons shall, unless the Court otherwise directs, be delivered or sent to the proper officer to be served by him or one of his subordinates.

(2) The proper officer may be an officer of a Court other than that in which the suit is instituted, and, where he is such an officer, the summons may be sent to him by post or in such other manner as the Court may direct.

#### After Amendment

[“9. Delivery of summons by Court.- (1) Where the defendant resides within the jurisdiction of the Court in which the suit is instituted, or has an agent resident within that jurisdiction who is empowered to accept the service of the summons, the summons shall, unless the Court otherwise directs, be delivered or sent either to the proper officer to be served by him or one of his subordinates or to such courier services as are approved by the Court.

(2) The proper officer may be an officer of a Court other than that in which the suit is instituted, and, where he is such an officer, the summons may be sent to him in such manner as the Court may direct.

(3) The services of summons may be made by delivering or transmitting a copy thereof by registered post acknowledgement due, addressed to the defendant or his agent empowered to accept the service or by speed post or by such courier services as are approved by the High Court or by the Court referred to in sub-rule (1) or by any other means of transmission of documents (including fax message or electronic mail service) provided by the rules made by the High Court:

Provided that the service of summons under this sub-rule shall be made at the expenses of the plaintiff.

(4) Notwithstanding anything contained in sub-rule (1), where a defendant resides outside the jurisdiction of the Court in which the suit is instituted, and the Court directs that the service of summons on that defendant may be made by such mode of service of summons as is referred to in sub-rule (3) (except by registered post acknowledgment due,) the provisions of Rule 21 shall not apply.

(5) When an acknowledgment or any other receipt purporting to be signed by the defendant or his agent is received by the Court or postal article containing the summons is received back by the Court with an endorsement purporting to have been made by a postal employee or by any person authorised to take delivery of the postal article containing the summons or had refused to accept the summons by any other means specified in sub-rule (3) when tendered or transmitted to him, the Court issuing the summons shall declare that the summons had been duly served on the defendant:

Provided that where the summons was properly addressed, pre-paid and duly sent by registered post acknowledgment due, the declaration referred to in this sub-rule shall be made notwithstanding the fact that the acknowledgment having been lost or mislaid, or for any other reason, has not been received by the Court within thirty days from the date of issue of summons.

(6) The High Court or the District Judge, as the case may be, shall prepare a panel of courier agencies for the purposes of sub-rule (1).<sup>5</sup>]

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<sup>5</sup> Subs. By Sec.6 of Act 22 of 2002 (for original rule 9)

[9-A. Summons given to the plaintiff for service.- (1) The Court may, in addition to the service of summons under Rule 9, on the application of the plaintiff for the issue of a summons for the appearance of the defendant, permit such plaintiff to effect service of such summons on such defendant and shall, in such a case, deliver the summons to such plaintiff for service.

(2) The service of such summons shall be effected by or on behalf of such plaintiff by delivering or tendering to the defendant personally a copy thereof signed by the Judge or such officer of the Court as he may appoint in this behalf and sealed with the seal of the Court or by such mode of service as is referred to in sub-rule (3) of Rule 9.

(3) The provisions of Rules 16 and 18 shall apply to a summons personally served under this rule as if the person effecting service were a serving officer.

(4) If such summons, when tendered, is refused or if the person served refuses to sign an acknowledgment of service or for any reason such summons cannot be served personally, the Court shall, on the application of the party, re-issue summons to be served by the Court in the same manner as a summons to a defendant". ]

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<sup>6</sup> Ins. By Ibid

## ORDER VI

### PLEADINGS GENERALLY

Before Amendment

#### **17. Amendment of pleadings.-**

The Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties.

#### **18. Failure to amend after order.-**

If a party who has obtained an order for leave to amend does not amend accordingly within the time limited for that purpose by the order, or if no time is thereby limited then within fourteen days from the date of the order, he shall not be permitted to amend after the expiration of such limited time as aforesaid or of such fourteen days, as the case may be, unless the time is extended by the Court.

After Amendment

"17. Amendment of pleadings.- The Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties:

Provided that no application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial.

18. Failure to amend after Order.- If a party who has obtained an order for leave to amend does not amend accordingly within the time limited for the purpose by the order, or if no time is thereby limited then within fourteen days from the date of the order, he shall not be permitted to amend after the expiration of such limited time as aforesaid or of such fourteen days, as the case may be, unless the time is extended by the Court."<sup>7</sup>

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<sup>7</sup> Subs. By Sec7. of Sec.22 of Act 2002

## ORDER VII

### PLAINT

#### 9. Procedure for admitting plaint Concise statements.-

(1) The plaintiff shall endorse on the plaint, or annex thereto, a list of the documents (if any) which he has produced along with it ; and, if the plaint is admitted, a\*[ *shall present, within such time as may be fixed by the Court or extended by it from time to time, as many copies* ] on plain paper of the plaint as there are defendants, unless the Court by reason of the length of the plaint or the number of the defendants, or for any other sufficient reason, permits him to present a like number of concise statements of the nature of the claim made, or of the relief claimed in the suit, in which case he shall present such statements<sup>8</sup>.

*[(1A) The plaintiff shall, within the time fixed by the Court or extended by it under sub-rule (1), pay the requisite fee for the service or summons on the defendants.]*<sup>9</sup>

(2) Where the plaintiff sues, or the defendant or any of the defendants is sued, in a representative capacity, such statements shall show in what capacity the plaintiff or defendant sues or is sued.

(3) The plaintiff may, by leave of the Court, amend such statements so as to make them correspond with the plaint.

(4) The chief ministerial officer of the Court shall sign such list and copies or statements if, on examination, he finds them to be correct.

#### After Amendment

"9. Procedure on admitting plaint.- Where the Court orders that the summons be served on the defendants in the manner provided in Rule 9 of Order V, it will direct the plaintiff to present as many copies of the plaint on plain paper as there are

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<sup>8</sup> Subs. by Act 104 of 1976, sec. 57 (w.e.f. 1-2-1977)

<sup>9</sup> Ins. by Act 104 of 1976, sec. 57 (w.e.f. 1-2-1977).

defendants within **seven days** from the date of such order along with requisite fee for service of summons on the defendants."<sup>10</sup>

### **11.Rejection of plaint.-**

The plaint shall be rejected in the following cases:-

(a) where it does not disclose a cause of action;

(b) where the relief claimed is undervalued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so;

(c) where the relief claimed is properly valued but the plaint is written upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so;

(d) where the suit appears from the statement in the plaint to be barred by any law:

(e) where it is not filed in duplicate;<sup>11</sup>

(f) where the plaintiff fails to comply with the provisions of rule 9<sup>12</sup>

*[Provided that the time fixed by the Court for the correction of the valuation or supplying of the requisite stamp-paper shall not be extended unless the Court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of an exceptional nature for correcting the valuation or supplying the requisite stamp-paper, as the case may be, within the time fixed by the Court and that refusal to extend such time would cause grave injustice to the plaintiff.]<sup>13</sup>*

### **14.Production of document on which plaintiff sues.-**

(1) Where a plaintiff sues upon a document in his possession or power, he shall produce it in Court when the plaint is presented, and shall at the same time deliver the document or a copy thereof to be filed with the plaint.

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<sup>10</sup>Subs. By Sec.8 of Act 22 of 2002

<sup>11</sup> ins. By Sec. 7 of Act 46 of 1999

<sup>12</sup> ins. By Sec.8 of Act 22 of 2002

<sup>13</sup> Added by Act 104 of 1976, sec.57 (w.e.f. 1-2-1977).

**(2) List of other documents.-** Where he relies on any other documents (whether in his possession or power or not ) as evidence in support of his claim, he shall enter such documents in a list to be added or annexed to the plaint.

<sup>14</sup>[(3) A document which ought to be produced in Court by the plaintiff when the plaint is presented, or to be entered in the list to be added or annexed to the plaint but is not produced or entered accordingly, shall not, without the leave of the Court, be received in evidence on his behalf at the hearing of the suit;]

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<sup>14</sup> Ins. By Sec. 8 of Act 22 of 2002

## ORDER VIII

### *a\**[WRITTEN STATEMENT, SET-OFF AND COUNTER-CLAIM]

Before Amendment

#### 1. Written statement.-

*b\**[(1)] The defendant *c\**[ ] shall, at or before the first hearing or within such time as the Court may permit, present a written statement of his defence.

After Amendment

<sup>15</sup>1. Written Statement.- The defendant shall, within **thirty days** from the date of service of summons on him, present a written statement of his defence:

Provided that where the defendant fails to file the written statement within the said period of thirty days, he shall be allowed to file the same on such other day, as may be specified by the Court, for reasons to be recorded in writing, but which shall not be later than **ninety days** from the date of service of summons”;

<sup>16</sup>1A. Duty of defendant to produce documents upon which relief is claimed or relied upon by him.—(1) Where the defendant bases his defence upon a document or relies upon any document in his possession or power, in support of his defence or claim for set off or counter claim, he shall enter such document in a list, and shall produce it in Court when the written statement is presented by him and shall, at the same time, deliver the document and a copy thereof, to be filed with the written statement.

(2) Where any such document is not in the possession or power of the defendant, he shall, wherever possible, state in whose possession or power it is.

<sup>17</sup>(3) A document which ought to be produced in Court by the defendant under this rule, but, is not so produced shall not, without the leave of the Court, be received in evidence on his behalf at the hearing of the suit;

(4) Nothing in this rule shall apply to documents—

(a) produced for the cross-examination of the plaintiff's witnesses, or

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<sup>15</sup> ins. By Sec. 9 of Act 22 of 2002

<sup>16</sup> ins. By Sec. 18 of Act 46 of 1999

<sup>17</sup> Subs. By Sec. 9 of Act 22 of 2002

(b) handed over to a witness merely to refresh his memory.;

Before Amendment

**9. Subsequent pleadings.-**

<sup>18</sup>No pleading subsequent to the written statement of a defendant other than by way of Defence to a set-off *a*\*[or counter-claim] shall be presented except by the leave of the Court and upon such terms as the Court thinks fit, but the Court may at any time require a written statement or additional written statement from any of the parties and fix a time for presenting the same.

After Amendment

<sup>19</sup>9. Subsequent pleadings.- No pleading subsequent to the written statement of a defendant other than by way of defence to set-off or counter claim shall be presented except by the leave of the Court and upon such terms as the Court thinks fit; but the Court may at any time require a written statement or additional written statement from any of the parties and fix a time of not more than **thirty days** for presenting the same.

10. Procedure when party fails to present written statement called for by Court.- Where any party from whom a written statement is required under Rule 1 or Rule 9 fails to present the same within the time permitted or fixed by the Court, as the case may be, the Court shall pronounce judgment against him, or make such order in relation to the suit as it thinks fit and on the pronouncement of such judgment a decree shall be drawn up.

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<sup>18</sup> *Ins. by Act 104 of 1976, sec. 58 (w.e.f. 1-2-1977)*

<sup>19</sup> subs. By Sec. 9 of Act 22 of 2002

## ORDER IX

### APPEARANCE OF PARTIES AND CONSEQUENCE OF NON-APPEARANCE

#### Before Amendment

##### 2. Dismissal of suit where summons not served in consequence of plaintiff's failure to pay costs.-

Where on the day so fixed it is found that the summons has not been served upon the defendant in consequence of the failure of the plaintiff to pay the Court-fee of postal charges (if any) chargeable for such service, <sup>1</sup>[or to present copies of the plaint or concise statements, as required by rule 9 of Order VIII,] the Court may make an order that the suit be dismissed:

<sup>2</sup>[Provided that no such order shall be made, if, notwithstanding such failure, the defendant attends in person (or by agent when he is allowed to appear by agent) on the day fixed for him to appear and answer.]

#### After Amendment

##### 2. Dismissal of suit where summons not served in consequence of plaintiff's failure to pay costs.-

<sup>3</sup> Where on the day so fixed it is found that the summons has not been sent within stipulated period of two days, to the defendant by the plaintiff or his agent or in consequence of their failure to pay the Court-fee or any charges, if any chargeable for such service, the Court shall make an order that the suit be dismissed:

Provided that no such order shall be made if, notwithstanding such failure, the defendant attends in person or by agent when he is allowed to appear by agent on the day fixed for him to appear and answer

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<sup>1</sup> Ins. by Act 104 of 1976, sec. 59 (w.e.f. 1-2-1977).

<sup>2</sup> Subs. by Act 104 of 1976, sec. 59, for the former proviso (w.e.f. 1-2-1977)

<sup>3</sup> Substituted by Section 19 of Act 46 of 1999

**5. Dismissal of suit where plaintiff, after summons returned unserved, fails for three months to apply for fresh summons.-**

**Before Amendment**

<sup>1</sup>[(1) Where, after a summons has been issued to the defendant, or to one of several defendants, and returned unserved, the plaintiff fails, for a period of <sup>2</sup>[one month] from the date of the return made to the Court by the officer ordinarily certifying to the Court returns made by the serving officers to apply for the issue of a fresh summons, the Court shall make an order that the suit be dismissed as against such defendant, unless the plaintiff has within the said period satisfied the Court that \_

(a) he has failed using his best endeavors to discover the residence of the defendant, who has not been served, or

(b) such defendant is avoiding service of process, or

(c) there is any other sufficient cause for extending the time,

in which case the Court may extend the time for making such application for such period as it thinks fit.]

(2) In such case the plaintiff may (subject to the law of limitation) bring a fresh suit.

**After Amendment**

[(1) Where, after a summons has been issued to the defendant, or to one of several defendants, and returned unserved, the plaintiff fails, for a period of <sup>3</sup>[seven days ] from the date of the return made to the Court by the officer ordinarily certifying to the Court returns made by the serving officers to apply for the issue of a fresh summons, the Court shall make an order that the suit be dismissed as against such defendant, unless the plaintiff has within the said period satisfied the Court that \_

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<sup>1</sup> Subs. by Act 24 of 1920, sec. 2, for the original sub-rule (i).

<sup>2</sup> Subs. by Act 104 of 1976, sec. 59, for "three months" (w.e.f. 1-2-1977)

<sup>3</sup> Substituted by section 19 of Act 46 of 1999

*(a) he has failed using his best endeavors to discover the residence of the defendant, who has not been served, or*

*(b) such defendant is avoiding service of process, or*

*(c) there is any other sufficient cause for extending the time,*

*in which case the Court may extend the time for making such application for such period as it thinks fit.]*

(2) In such case the plaintiff may (subject to the law of limitation) bring a fresh suit.

## **ORDER X**

### **EXAMINATION OF PARTIES BY THE COURT**

#### **Before Amendment**

##### **1. Ascertainment whether allegations in pleadings are admitted or denied.-**

At the first hearing of the suit the Court shall ascertain from each party or his pleader whether he admits or denies such allegations of fact as are made in the plaint or written statement (if any) of the opposite party, and as are not expressly or by the necessary implication admitted or denied by the party against whom they are made. The Court shall record such admissions and denials.

#### **After Amendment**

##### **1. Ascertainment whether allegations in pleadings are admitted or denied.-**

At the first hearing of the suit the Court shall ascertain from each party or his pleader whether he admits or denies such allegations of fact as are made in the plaint or written statement (if any) of the opposite party, and as are not expressly or by the necessary implication admitted or denied by the party against whom they are made. The Court shall record such admissions and denials.

<sup>1</sup>After recording the admissions and denials, the Court shall direct the parties to the suit to opt either mode of the settlement outside the Court as specified in sub-section (1) of section

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<sup>1</sup> Inserted by section 20 of act 46 of 1999

89. On the option of the parties, the Court shall fix the date of appearance before such forum or authority as may be opted by the parties.

1B. Appearance before the conciliatory forum or authority.—Where a suit is referred under rule 1A, the parties shall appear before such forum or authority for conciliation of the suit.

1C. Appearance before the Court consequent to the failure of efforts of conciliation.—Where a suit is referred under rule 1A and the presiding officer of conciliation forum or authority is satisfied that it would not be proper in the interest of justice to proceed with the matter further, then, it shall refer the matter again to the Court and direct the parties to appear before the Court on the date fixed by it.";

(ii) in rule 4, in sub-rule (1), for the words "may postpone the hearing of the suit to a future day", the words "may postpone the hearing of the suit to a day not later than seven days from the date of first hearing" shall be substituted.

#### **Before Amendment**

##### **4. Consequence of refusal or inability of pleader to answer.-**

(1) Where the pleader of any party who appears by a pleader or any such person accompanying a pleader as is referred to in rule 2, refuses or is unable to answer any material question relating to the suit which the Court is of opinion that the party whom he represents ought to answer, and is likely to be able to answer if interrogated in person, the Court may postpone the hearing of the suit to a future day and direct that such party shall appear in person on such day.

(2) If such party fails without lawful excuse to appear in person on the day so appointed, the Court may pronounce Judgment against him, or make such order in relation to the suit as it thinks fit.

#### **After Amendment**

##### **4. Consequence of refusal or inability of pleader to answer.-**

(1) Where the pleader of any party who appears by a pleader or any such person accompanying a pleader as is referred to in rule 2, refuses or is unable to answer any

material question relating to the suit which the Court is of opinion that the party whom he represents ought to answer, and is likely to be able to answer if interrogated in person, the Court <sup>1</sup>may postpone the hearing of the suit to a day not later than seven days from the day of first hearing and direct that such party shall appear in person on such day.

(2) If such party fails without lawful excuse to appear in person on the day so appointed, the Court may pronounce Judgment against him, or make such order in relation to the suit as it thinks fit.

## **ORDER XI**

### **DISCOVERY AND INSPECTION**

#### **Before Amendment**

##### **2.Particular interrogatories to be submitted.-**

On an application for leave to deliver interrogatories' the particular interrogatories proposed to be delivered shall be submitted to the Court. In deciding upon such application, the Court shall take into account any offer, which may be made by the party sought to be interrogated to deliver particulars, or to make admissions, or to produce documents relating to the matters in question, or any of them, and leave shall be given as to such only of the interrogatories submitted as the Court shall consider necessary either for disposing fairly of the suit or for saving costs.

#### **After Amendment**

##### **2.Particular interrogatories to be submitted.-**

On an application for leave to deliver interrogatories' the particular interrogatories proposed to be delivered shall be submitted to the Court <sup>1</sup>and that Court shall decide within **seven** days from the day of filing of the same return. In deciding upon such application, the Court shall take into account any offer, which may be made by the party sought to be interrogated to deliver particulars, or to make admissions, or to produce documents relating to the matters in question, or any of them, and leave shall be given as to such only of

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<sup>1</sup> Substituted by Section 20 of Act 46 of 1999

<sup>1</sup> Inserted by section 21 of act 46 of 1999

the interrogatories submitted as the Court shall consider necessary either for disposing fairly of the suit or for saving costs.

### **Before Amendment**

#### **15. Inspection of documents referred to in pleadings or affidavits.-**

Every party to a suit shall be entitled at any time to give notice to any other party, in whose pleadings or affidavits reference is made to any document <sup>1</sup>[*or who has entered any document in any list annexed to his pleadings,*] or produce such document for the inspection of the party giving such notice, or of his pleader, and to permit him or them to take copies thereof; and any party not complying with such notice shall not afterwards be at liberty to put any such document in evidence on his behalf in such suit unless he shall satisfy the Court that such document relates only to his own title, he being a defendant to the suit, or that he had some other cause or excuse which the Court shall deem sufficient for not complying with such notice in which case the Court may allow the same to be put in evidence on such terms as to costs and otherwise as the Court shall think fit.

### **After Amendment**

#### **15. Inspection of documents referred to in pleadings or affidavits.-**

Every party to a suit shall be entitled at <sup>2</sup>or before the settlement of issues to give notice to any other party, in whose pleadings or affidavits reference is made to any document [*or who has entered any document in any list annexed to his pleadings,*] or produce such document for the inspection of the party giving such notice, or of his pleader, and to permit him or them to take copies thereof; and any party not complying with such notice shall not afterwards be at liberty to put any such document in evidence on his behalf in such suit unless he shall satisfy the Court that such document relates only to his own title, he being a defendant to the suit, or that he had some other cause or excuse which the Court shall deem sufficient for not complying with such notice in which case the Court may allow the same to be put in evidence on such terms as to costs and otherwise as the Court shall think fit.

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<sup>1</sup> Ins. by Act 104 of 1976 sec. 61 (w.e.f. 1-2-1977).

<sup>2</sup> Substituted by section 21 of Act 46 of 1999

**ORDER XII**  
**ADMISSIONS**

**Before Amendment**

**2. Notice to admit documents.-**

Either party may call upon the other party <sup>1</sup> [*to admit, within fifteen days from the date of service of the notice any document,*] saving all just exceptions; and in case of refusal or neglect to admit, after such notice, the costs of proving any such document shall be paid by the party so neglecting or refusing, whatever the result of the suit may be, unless the Court otherwise directs; and no costs of proving any document shall be allowed unless such notice is given except where the omission to give the notice is, in the opinion of the Court, a saving of expense.

**After Amendment**

**2. Notice to admit documents.-**

Either party may call upon the other party [*to admit, within <sup>2</sup>seven days from the date of service of the notice any document,*] saving all just exceptions; and in case of refusal or neglect to admit, after such notice, the costs of proving any such document shall be paid by the party so neglecting or refusing,

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<sup>1</sup> Subs. By Act 104 of 1976, sec. 62, for "to admit any document" (w.e.f. 1-2-1977).

<sup>2</sup> Substituted by Section 21 of the Act 46 of 1999

whatever the result of the suit may be, unless the Court otherwise directs; and no costs of proving any document shall be allowed unless such notice is given except where the omission to give the notice is, in the opinion of the Court, a saving of expense.

### **Before Amendment**

#### **4. Notice to admit facts.-**

Any party, may, by notice in writing, at any time not later than nine days before the day fixed for the hearing, call on any other party to admit, for the purposes of the suit only, any specific fact or facts, mentioned in such notice. And in case of refusal or neglect to admit the same within six days after service of such notice, or within such further time as may be allowed by the court costs of proving such fact or facts shall be paid by the party so neglecting or refusing, whatever the result of the suit may be, unless the Court otherwise directs :

Provided that any admission made in pursuance of such notice is to be deemed to be made only for the purposes of the particular suit, and not as an admission to be used against the party on any other occasion or in favour of any person other than the party giving the notice:

Provided also that the Court may at any time allow any party to amend or withdraw any admission so made on such terms as may be just.

### **After Amendment**

#### **4. Notice to admit facts.-**

Any party, may, by notice in writing, at any time not later than nine days before the day fixed for the hearing, call on any other party to admit, for the purposes of the suit only, any specific fact or facts, mentioned in such notice. And in case of refusal or neglect to admit the same within six days after service of such notice, or within such further time as may be allowed by the court costs of proving such fact or facts shall be paid by the party

so neglecting or refusing, whatever the result of the suit may be, unless the Court otherwise directs :

Provided that any admission made in pursuance of such notice is to be deemed to be made only for the purposes of the particular suit, and not as an admission to be used against the party on any other occasion or in favour of any person other than the party giving the notice:

<sup>1</sup> [ \*\*\* ]

## ORDER XIII

### PRODUCTION, IMPOUNDING AND RETURN OF DOCUMENTS

#### Before Amendment

#### 1. Documentary evidence to be produced <sup>1</sup>[*at or before the settlement of issues*].-

(1) The parties or their pleaders shall produce, <sup>1</sup> [*at or before the settlement of issues*], all the documentary evidence of every description in their possession or power, on which they intend to rely, and which has not already been filed in Court, and all documents which the Court has ordered to be produced.

(2) The Court shall receive the documents so produced : Provided that they are accompanied by an accurate list thereof prepared in such form as the High Court directs

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<sup>1</sup> Rule 4 , second proviso has been omitted by Section 22 of Act 46 of 1999

<sup>1</sup> Subs. By Act 104 of 1976, sec. 63, for certain words (*w.e.f.1-2-1977*).

## **After Amendment**

### **1. Documentary evidence to be produced *[at or before the settlement of issues]*.-**

<sup>2</sup>(1) The parties or their pleader shall produce on or before the settlement of issues, all the documentary evidence in original where the copies thereof have been filed along with plaint or written statement.

(2) The Court shall receive the documents so produced:

Provided that they are accompanied by an accurate list thereof prepared in such form as the High Court directs.

(3) Nothing in sub-rule (1) shall apply to documents—

(a) produced for the cross-examination of the witnesses of the other party; or

(b) handed over to a witness merely to refresh his memory.

## **ORDER XIV**

### **SETTLEMENT OF ISSUES AND DETERMINATION OF SUIT ON ISSUES OF LAW OR ON ISSUES AGREED UPON**

## **Before Amendment**

### **4. Court may examine witnesses or documents before framing issues.-**

Where the Court is of opinion that the issues cannot be correctly framed without the examination of some person not before the Court or without the inspection of some document not produced in the suit, it may adjourn the framing of the issues to a future day, and may (subject to any law for the time being in force) compel the attendance of

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<sup>2</sup> Substituted by Section 23 of Act 46 of 1999

any person or the production of any document by the person in whose possession or power it is by summons or other process.

#### **After Amendment**

#### **4. Court may examine witnesses or documents before framing issues.-**

Where the Court is of opinion that the issues cannot be correctly framed without the examination of some person not before the Court or without the inspection of some document not produced in the suit, it<sup>1</sup> may adjourn the framing of issues to a day not later than seven days, and may (subject to any law for the time being in force) compel the attendance of any person or the production of any document by the person in whose possession or power it is by summons or other process.

#### **Before Amendment**

#### **5. Power to amend, and strike out, issues.-**

(1) The Court may at any time before passing a decree amend the issues or frame additional issues on such terms as it thinks fit, and all such amendments or additional issues as may be necessary for determining the matters in controversy between the parties shall be so made or framed.

(2) The Court may also, at any time before passing a decree, strike out any issues that appear to it to be wrongly framed or introduced.

#### **After Amendment**

#### **<sup>2</sup>5. Power to amend, and strike out, issues.-**

(1) The Court may at any time before passing a decree amend the issues or frame additional issues on such terms as it thinks fit, and all such amendments or additional issues as may be necessary for determining the matters in controversy between the parties shall be so made or framed.

(2) The Court may also, at any time before passing a decree, strike out any issues that appear to it to be wrongly framed or introduced.

### **ORDER XVI**

### **SUMMONING AND ATTENDANCE OF WITNESSES**

#### **Before Amendment**

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<sup>1</sup> Substituted by section 24 of Act 46 of 1999

<sup>2</sup> Substituted by Section 11 of Act 22 of 2002 ( earlier omitted by section 24 of Act 46 of 1999)

<sup>1</sup> ***[1. List of witnesses and summons to witnesses.-***

*(1) On or before such date as the Court may appoint, and not later than fifteen days after the date on which the issues are settled, the parties shall present in Court a list of witnesses whom they propose to call either to give evidence or to produce documents and obtain summonses to such persons for their attendance in Court.*

*(2) A party desirous of obtaining any summons for the attendance of any person shall file in Court an application stating therein the purpose for which the witness is proposed to be summoned.*

*(3) The Court may, for reasons to be recorded, permit a party to call, whether by summoning through Court or otherwise, any witness, other than those whose names appear in the list referred to in sub-rule (1), if such party shows sufficient cause for the omission to mention the name of such witness in the said list.*

*(4) Subject to the provisions of sub-rule (2), summonses referred to in this rule may be obtained by the parties on an application to the Court or to such officer as may be appointed by the Court in this behalf.*

**After Amendment**

***[1. List of witnesses and summons to witnesses.-***

**(1) On or before such date as the Court may appoint, and not later than fifteen days after the date on which the issues are settled, the parties shall present in Court a list of witnesses whom they propose to call either to give evidence or to produce documents and obtain summonses to such persons for their attendance in Court.**

**(2) A party desirous of obtaining any summons for the attendance of any person shall file in Court an application stating therein the purpose for which the witness is proposed to be summoned.**

**(3) The Court may, for reasons to be recorded, permit a party to call, whether by summoning through Court or otherwise, any witness, other than those whose names appear in the list referred to in sub-rule (1), if such party shows sufficient cause for the omission to mention the name of such witness in the said list.**

**(4) Subject to the provisions of sub-rule (2), summonses referred to in this rule may be obtained by the parties on an application to the Court or to such officer as may be**

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<sup>1</sup> *Subs. by Act 104 of 1976, sec. 66, for rule 1 (w.e.f. 1 2 1977)*

appointed <sup>2</sup>by the Court in this behalf within five days of presenting the list of witnesses under sub-rule(1).

### **Before Amendment**

#### **2.Expenses of witness to be paid into Court on applying for summons.-**

(1) The party applying for a summons shall, before the summons is granted and within a period to be fixed, pay into Court such a sum of money as appears to the Court to be sufficient to defray the travelling and other expenses of the person summoned in passing to and from the Court in which he is required to attend, and for one day's attendance.

#### **(2) Experts.-**

In determining the amount payable under this rule, the Court may, in the case of any person summoned to give evidence as an expert, allow reasonable remuneration for the time occupied both in giving evidence and in performing any work of an expert character necessary for the case.

#### **(3) Scale of expenses.-**

Where the Court is subordinate to a High Court, regard shall be had, in fixing the scale of such expenses, to any rules made in that behalf.

<sup>1</sup>[(4) **Expenses to be directly paid to witnesses.-**Where the summons is served directly by the party on a witness, the expenses referred to in sub-rule (1) shall be paid to the witness by the party or his agent.]

### **After Amendment**

#### **2.Expenses of witness to be paid into Court on applying for summons.-**

(1) The party applying for a summons shall, before the summons is granted and within a period to be fixed <sup>2</sup> which shall not be later than seven days from the date of making application under sub-rule (4) of rule1, pay into Court such a sum of money as appears to the Court to be sufficient to defray the travelling and other expenses of the person summoned in passing to and from the Court in which he is required to attend, and for one day's attendance.

#### **(2) Experts.-**

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<sup>2</sup> Substituted by section 25 of Act 46 of 1999

<sup>1</sup> Ins. by Act 104 of 1976, sec.66 (w.e.f. 1-2-1977).

<sup>2</sup> Inserted by section 25 of the Act 46 of 1999

In determining the amount payable under this rule, the Court may, in the case of any person summoned to give evidence as an expert, allow reasonable remuneration for the time occupied both in giving evidence and in performing any work of an expert character necessary for the case.

**(3) Scale of expenses.-**

Where the Court is subordinate to a High Court, regard shall be had, in fixing the scale of such expenses, to any rules made in that behalf.

*[(4) Expenses to be directly paid to witnesses.-Where the summons is served directly by the party on a witness, the expenses referred to in sub-rule (1) shall be paid to the witness by the party or his agent.]*

**ORDER XVII**

**ADJOURNMENTS**

**Before Amendment**

**1. Court may grant time and adjourn hearing.-**

(1) The Court may, if sufficient cause is shown, at any stage of the suit, grant time to the parties or to any of them, and may from time to time adjourn the hearing of the suit.

**(2) Costs of adjournment.-**

In every such case the Court shall fix a day for the further hearing of the suit, and may make such order as it thinks fit with respect to the costs occasioned by the adjournment:

<sup>1</sup>*[Provided that, \_*

*(a) when the hearing of the suit has commenced, it shall be continued from day-to-day until all the witnesses in attendance have been examined, unless the Court finds that, for the exceptional reasons to be recorded by it, the adjournment of the hearing beyond the following day is necessary.*

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<sup>1</sup> *Subs. by Act 104 of 1976, sec. 68, for the previous proviso (w.e.f. 1-2-1977).*

*(b) no adjournment shall be granted at the request of a party, except where the circumstances are beyond the control of that party,*

*(c) the fact that the pleader of a party is engaged in another Court, shall not be a ground for adjournment,*

*(d) where the illness of a pleader or his inability to conduct the case for any reason, other than his being engaged in another Court, is put forward: as a ground for adjournment, the Court shall not grant the adjournment unless it is satisfied that the party applying for adjournment could not have engaged another pleader in time,*

*(e) where a witness is present in Court but a party or his pleader is not present or the party or his pleader, though present in Court, is not ready to examine or cross-examine the witness, the Court may, if it thinks fit, record the statement of the witness and pass such orders as it thinks fit dispensing with the examination-in-chief or cross-examination of the witness, as the case may be, by the party or his pleader not present or not ready as aforesaid.]*

## **After Amendment**

### **1. Court may grant time and adjourn hearing.-**

<sup>1</sup>1) The Court may, if sufficient cause is shown, at any stage of the suit, grant time to the parties or to any of them, and may from time to time adjourn the hearing of the suit for reasons to be recorded in writing:

Provided that no such adjournment shall be granted more than three times to a party during hearing of the suit.

### **(2) Costs of adjournment.-**

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<sup>1</sup> Substituted by Section 26 of the Act 46 of 1999

In every such case the Court shall fix a day for the further hearing of the suit, and <sup>2</sup>shall make such orders as to costs occasioned by the adjournment or such higher costs as the court deems fit :

<sup>3</sup>[Provided that, \_

(a) when the hearing of the suit has commenced, it shall be continued from day-to-day until all the witnesses in attendance have been examined, unless the Court finds that, for the exceptional reasons to be recorded by it, the adjournment of the hearing beyond the following day is necessary.

(b) no adjournment shall be granted at the request of a party, except where the circumstances are beyond the control of that party,

(c) the fact that the pleader of a party is engaged in another Court, shall not be a ground for adjournment,

(d) where the illness of a pleader or his inability to conduct the case for any reason, other than his being engaged in another Court, is put forward: as a ground for adjournment, the Court shall not grant the adjournment unless it is satisfied that the party applying for adjournment could not have engaged another pleader in time,

(e) where a witness is present in Court but a party or his pleader is not present or the party or his pleader, though present in Court, is not ready to examine or cross-examine the witness, the Court may, if it thinks fit, record the statement of the witness and pass such orders as it thinks fit dispensing with the examination-in-chief or cross-examination of the witness, as the case may be, by the party or his pleader not present or not ready as aforesaid.]

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<sup>2</sup> Substituted by Section 26 of the Act 46 of 1999

<sup>3</sup> Subs. by Act 104 of 1976, sec. 68, for the previous proviso (w.e.f. 1-2-1977).

## ORDER XVIII

### HEARING OF THE SUIT AND EXAMINATION OF WITNESSES

#### Before Amendment

##### 2.Statement and production of evidence.-

(1) On the day fixed for the hearing of the suit or on any other day to which the hearing is adjourned, the party having the right to begin shall state his case and produce his evidence in support of the issues which he is bound to prove.

(2) The other party shall then state his case and produce his evidence (if any) and may then address the Court generally on the whole case.

(3) The party beginning may then reply generally on the whole case.

<sup>1</sup> [(4) Notwithstanding anything contained in this rule, the Court may, for reasons to be recorded, direct or permit any party to examine any witness at any stage.]

#### After Amendment

##### 2.Statement and production of evidence.-

(1) On the day fixed for the hearing of the suit or on any other day to which the hearing is adjourned, the party having the right to begin shall state his case and produce his evidence in support of the issues which he is bound to prove.

(2) The other party shall then state his case and produce his evidence (if any) and may then address the Court generally on the whole case.

(3) The party beginning may then reply generally on the whole case.

<sup>2</sup>[(3-A) Any party may address oral arguments in a case, and shall, before he concludes the oral arguments, if any, submit if the Court so permits concisely and under distinct headings written arguments in support of his case to the Court and such written arguments shall form part of the record.

(3-B) A copy of such written arguments shall be simultaneously furnished to the opposite party.

(3-C) No adjournment shall be granted for the purpose of filing the written arguments unless the Court, for reasons to be recorded in writing, considers it necessary to grant such adjournment.

(3-D) The Court shall fix such time-limits for the oral arguments by either of the parties in a case, as it thinks fit]

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<sup>1</sup> *Ins. by Act 104 of 1976, sec. 69 (w.e.f. 1-2-1977).*

<sup>2</sup> Inserted by section 12 of Act 22 of 2002

<sup>3</sup>[ \*\*\* ]

<sup>1</sup>**4. Recording of evidence.-**

(1) In every case, the examination in chief of a witness shall be on affidavit and copies thereof shall be supplied to the opposite party by the party who calls him for evidence.

Provided that where documents are filed and the parties rely upon the documents, the proof and admissibility of such documents which are filed along with affidavit shall be subject to the orders of the Court.

(2) The evidence (cross-examination and re-examination) of the witness in attendance, whose evidence (examination-in-chief) by affidavit has been furnished to the Court shall be taken either by the Court or by the Commissioner appointed by it:

Provided that the Court may, while appointing a commission under this sub-rule, consider taking into account such relevant factors as it thinks fit:

(3) The Court or the Commissioner, as the case may be, shall record evidence either in writing or mechanically in the present of the Judge or of the Commissioner, as the case may be, and where such evidence is recorded by the Commissioner he shall return such evidence together with his report in writing signed by him to the Court appointing him and the evidence taken under it shall form part of the record of the suit.

(4) The Commissioner may record such remarks as it thinks material respecting the demeanor of any witness while under examination:

Provided that any objection raised during the recording of evidence before the Commissioner shall be recorded by him and decided by the Court at the stage of arguments.

(5) The report of the Commissioner shall be submitted to the Court appointing the commission within sixty days from the date of issue of the commission unless the Court for reasons to be recorded in writing extends the time.

(6) The High Court or the District Judge, as the case may be, shall prepare a panel of Commissioners to record the evidence under this rule.

(7) The Court may by general or special order fix the amount to be paid as remuneration for the services of the Commissioner.

(8) The provisions of Rules 16, 16-A, 17 and 18 of Order XXVI, in so far as they are applicable, shall apply to the issue, execution and return of such commissions under this rule.

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<sup>3</sup> Omitted by section 27 of Act 46 of 1999

<sup>1</sup> Inserted by section 12 of Act 22 of 2002

### **Before Amendment**

<sup>1</sup>***[17A. Production of evidence not previously known or which could not be produced despite due diligence.-***

Where a party satisfies the Court that, after the exercise of due diligence, any evidence was not within his knowledge or could not be produced by him at the time when that party was leading his evidence, the Court may permit that party to produce that evidence at a later stage on such terms as may appear to it to be just.]

### **After Amendment**

<sup>2</sup>**[ \*\*\* ]**

### **<sup>3</sup>19. Power to get statements recorded on commission.—**

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<sup>1</sup> *Ins. by Act 104 of 1976, sec. 69 (w.e.f. 1-2-1977).*

<sup>2</sup> Omitted by section 27 of Act 46 of 1999

<sup>3</sup> Inscrtd by section 27 of Act 46 of 1999

Notwithstanding anything contained in these rules, the Court may, instead of examining witnesses in open Court, direct their statements to be recorded on commission under rule 4A of Order XXVI

## ORDER XX

### JUDGMENT AND DECREE

#### Before Amendment

#### <sup>1</sup>[1.Judgment when pronounced.-

<sup>2</sup>[(1)] The Court, after the case has been heard, shall pronounce judgment in open Court, either at once or, as soon thereafter as may be practicable, on some future day; and when the judgment is to be pronounced on some future day, the Court shall fix a day for that purpose, of which due notice shall be given to the parties or their pleaders :]

<sup>3</sup>[Provided that where the judgment is not pronounced at once, every endeavor shall be made by the Court to pronounce the judgment within fifteen days from the date on which the hearing of the case was concluded but, where it is not practicable so to do, the Court shall fix a future day for the pronouncement of the judgment, and such day shall not ordinarily be a day beyond thirty days from the date on which the hearing of the case was concluded, and due notice of the day so fixed shall be given to the parties or their pleaders:

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<sup>1</sup> Subs. by Act 66 of 1956, sec. 14, for rule 1.

<sup>2</sup> Rule I renumbered as sub-rule (1) of that rule by Act 104 of 1976, sec. 70 (w.e.f. 1-2-1977)

<sup>3</sup> Ins. by Act 104 of 1976, sec.70 (w.e.f. 1-2-1977).

Provide further that, where a judgment is not pronounced within thirty days from the date on which the hearing of the case was concluded, the Court shall record the reasons for such delay and shall fix a future day on which the judgment will be pronounced and due notice of the day so fixed shall be given to the parties or their pleaders.]

<sup>4</sup>[(2) Where a written judgment is to be pronounced, it shall be sufficient if the findings of the Court on each issue and the final order passed in the case are read out and it shall not be necessary for the Court to read out the whole judgment, but a copy of the whole judgment shall be made available for the perusal of the parties or the pleaders immediately after the judgment is pronounced.

(3) The judgment may be pronounced by dictation in open Court to a short hand writer if the judge is specially empowered by the High Court in this behalf:

Provided that, where the judgment is pronounced by dictation in open Court, the transcript of the judgment so pronounced shall, after making such correction therein as may be necessary, be signed by the judge, bear the date on which it was pronounced, and form a part of the record.]

## **After Amendment**

### **1. Judgment when pronounced.-**

<sup>1</sup>(1) The Court, after the case has been heard, shall pronounce judgment in an open court, either at once, or as soon thereafter as may be practicable and when the judgment is to be pronounced on some future day, the Court shall fix a day for that purpose, of which due notice shall be given to the parties or their pleades:

Provided that where the judgment is not pronounced at once, every endeavor shall be made by the Court to pronounce the judgment within thirty days from the date on which the hearing of the case was concluded but, where it is not practicable so to do on the ground of the exceptional and extraordinary circumstances of the case, the Court shall fix a future day for the pronouncement of the judgment, and such day shall not

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<sup>4</sup> *Ins. by Act 104 of 1976, sec. 70 (w.e.f. 1-2-1977).*

<sup>1</sup> Substituted by Section 13 of Act 22 of 2002

Where the judgment is type-written, copies of the type-written judgment shall, where it is practicable so to do, be made available to the parties immediately after the pronouncement of the judgment on payment, by the party applying for such copy, of such charges as may be specified in the rules made by the High Court.

#### **After Amendment**

##### **<sup>1</sup>[6A. Preparation of Decree.-**

(1) Every endeavor shall be made to ensure that the decree is drawn up as expeditiously as possible and, in any case, within fifteen days from the date on which the judgment is pronounced.

(2) An appeal may be preferred against the decree without filing a copy of the decree and in such a case the copy made available to the party by the Court shall for the purposes of rule 1 of Order XLI be treated as the decree. But as soon as the decree is drawn, the judgment shall cease to have the effect of a decree for the purposes of execution or for any other purpose.

##### **6B. Copies of judgments when to be made available.—**

Where the judgment is pronounced, copies of the judgment shall be made available to the parties immediately after the pronouncement of the judgment for preferring an appeal on payment of such charges as may be specified in the rule made by the High Court

### **ORDER XXI**

#### **EXECUTION OF DECREES AND ORDERS**

##### **32. Decree for specific performance for restitution of conjugal rights, or for an injunction.-**

(1) to (4) -----

(5) Where a decree for the specific performance of a contract or for an a injunction has not been obeyed, the Court may, in lieu of or in addition to all or any of the processes aforesaid, direct that the act required to be done may be done so far as practicable by the decree-holder or some other person appointed by the Court, at the cost of the judgment-debtor, and upon the act being done the expenses incurred may be ascertained in such manner as the Court may direct and may be recovered as if they were included in the decree.

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<sup>1</sup> Substituted by Section 28 of Act 46 of 1999

ordinarily be a day beyond sixty days from the date on which the hearing of the case was concluded, and due notice of the day so fixed shall be given to the parties or their pleaders

(2) Where a written judgment is to be pronounced, it shall be sufficient if the findings of the Court on each issue and the final order passed in the case are read out and it shall not be necessary for the Court to read out the whole judgment. <sup>2</sup>[ \*\*\* ]

### **Before Amendment**

#### **6A.Last paragraph of judgment to indicate in precise terms the reliefs granted.-**

(1) The last paragraph of the judgment shall state in precise terms relief which has been granted by such judgment.

(2) Every endeavor shall be made to ensure that the decree is drawn up as expeditiously as possible, and, in any case, within fifteen days from the date on which the judgment is pronounced; but where the decree is not drawn up within the time, aforesaid, the Court shall if requested so to do by a party desirous of appealing against the decree, certify that the decree has not been drawn up and indicate in the certificate the reason for the delay, and thereupon-

(a) an appeal may be preferred against the decree without filing a copy the decree and in such a case the last paragraph of the Judgment shall, for the purposes of rule 1 of Order XLI, be treated as the decree; and :

(b) so long as the decree is not drawn up, the last paragraph of the Judgment shall be deemed to be the decree for the purpose of execution and the party interested shall be entitled to apply for a copy of that paragraph only without being required to apply for a copy of the whole of the judgment, but as soon as a decree is drawn up, the last paragraph of the judgment shall cease to have the effect of a decree for the purpose of execution or for any other purpose:

Provided that, where an application is made for obtaining a copy of only the last paragraph of the judgment, such copy shall indicate the name and address of all the parties to the suit

#### **6B.Copies of type-written Judgments when to be made available.-**

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<sup>2</sup> omitted by section 28 of Act 46 of 1999

<sup>1</sup>Explanation .- For the removal of doubts, it is hereby declared that the expression “the act required to be done” covers prohibitory as well as mandatory injunctions

**92.Sale when to become absolute or be set aside.-**

(1) Where no application is made under rule 89, rule 90 or rule 91, or where such application is made and disallowed, the Court shall make an order confirming the sale, and thereupon the sale shall become absolute

*a\*[Provided that, where any property is sold in execution of a decree pending the final disposal of any claim to, or any objection to the attachment of such property, the Court shall not confirm such sale until the final disposal of such claim or a objection.]*

*[a] Added by Act 104 of 1976, sec 72 (w.e.f. 1-2-1977)*

(2) Where such application is made and allowed, and where, in the case of an application under rule 89, the deposit required by that rule is made within <sup>1</sup>sixty days from the date of sale, *a\*[or in cases where the amount deposited under rule 89 is found to be deficient owing to any clerical or arithmetical mistake on the part of the depositor and such*

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<sup>1</sup> Inserted by section 14 of Act 22 of 2002

<sup>1</sup> Substituted for 30 days by section 14 of Act 22 of 2002

*deficiency has been made good within such time as may be fixed by the Court, the Court shall make an order setting aside the sale .]*

***[a] Subs by Act of 1976, sec 72 for " the Court shall make an order setting aside the sale" ( w.e.f. 1-2-1977)***

Provided that no order shall be made unless notice of the application has been given to all persons affected thereby.

<sup>2</sup>Provided further that the deposit under this sub-rule may be made within sixty days in all such cases where the period of thirty days, within which the deposit had to be made, has not expired before the commencement of the Code of Civil Procedure (Amendment) Act, 2002

(3) No suit to set aside an order made under this rule shall be brought by any person against whom such order is made.

*a\*[(4) Where a third party challenges the Judgment-debtor's title by filing a suit against the auction-purchaser, the decree-holder and the Judgment-debtor shall be necessary parties to the suit.*

*(5) If the suit referred to in sub-rule (4) is decreed, the Court shall direct the decree-holder to refund the money to the auction-purchaser, and where such an order is passed the execution proceeding in which the sale had been held shall, unless the Court otherwise directs, be revived at the stage at which the sale was ordered].*

***[a] Ins. by Act 104 of 1976, sec. 72 (w.e.f 1-2-1977).***

## **ORDER XXVI**

### **COMMISSIONS**

#### **Commissions to examine witnesses**

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<sup>2</sup> Ibid.

**4A. Commission for examination of any person resident within the local limits of the jurisdiction of the Court.—**

<sup>1</sup>Notwithstanding anything contained in these rules, any Court may, in the interest of justice or for the expeditious disposal of the case or for any other reason, issue commission in any suit for the examination, on interrogatories or otherwise, of any person resident within the local limits of its jurisdiction, and the evidence so recorded shall be read in evidence.

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<sup>1</sup> Inserted by Section 29 of Act 46 of 1999

## **ORDER XLI**

### **APPEALS FROM ORIGINAL DECREES**

#### **Before Amendment**

##### **1. Form of appeal. What to accompany memorandum.-**

- (1) Every appeal shall be preferred in the form of a memorandum signed by the appellant or his pleader and presented to the Court or to such officer as it appoints in this behalf. The memorandum shall be accompanied by a copy of the decree appealed from and (unless the Appellate Court dispenses therewith) of the Judgment on which it is founded

##### **9. Registry of memorandum of appeal.-**

- (1) Where a memorandum of appeal is admitted, the Appellate Court or the proper officer of that Court shall endorse thereon the date of presentation, and shall register the appeal in a book to be kept for the purpose.

##### **(2) Register of Appeals.-**

Such book shall be called the Register of Appeals.

##### **11. Power to dismiss appeal without sending notice to Lower Court.-**

- (1) The Appellate Court, after sending for the record if it thinks fit so to do, and after fixing a day for hearing the appellant or his pleader and hearing him accordingly if he appears on that day, may dismiss the appeal without sending notice to the Court from whose decree the appeal is preferred and without serving notice on the respondent or his pleader.

##### **12. Day for hearing appeal.-**

- (1) Unless the Appellate Court dismisses the appeal under rule 11, it shall fix a day for hearing the appeal.
- (2) Such day shall be fixed with reference to the current business of the Court, the place of residence of the respondent, and the time necessary for the service of the notice of appeal, so as to allow the respondent sufficient time to appear and answer the appeal on such day.

##### **13. Appellate Court to give notice to Court whose decree appealed from.-**

(1) Where the appeal is not dismissed under rule 11, the Appellate Court shall send notice of the appeal to the Court from whose decree the appeal is preferred.

**(2) Transmission of papers to Appellate Court.-**

Where the appeal is from the decree of a Court, the records of which are not deposited in the Appellate Court, the Court receiving such notice shall send with all practicable despatch all material papers in the suit, or such papers as may be specially called for by the Appellate Court.

**(3) Copies of exhibits in Court whose decree appealed from.-**

Either party may apply in writing to the Court from whose decree the appeal is preferred, specifying any of the papers in such Court of which he requires copies to be made; and copies of such papers shall be made at the expense of, and given to, the applicant.

**15. Contents of notice.-**

The notice to the respondent shall declare that, if he does not appear in the Appellate Court on the day so fixed, the appeal will be heard exparte.

**18. Dismissal of appeal where notice not served in consequence of appellant's failure to deposit costs.-**

Where on the day fixed, or on any other day to which the hearing may be adjourned, it is found that the notice to the respondent has not been served in consequence of the failure of the appellant to deposit, within the period fixed, the sum required to defray the cost of serving the notice *a*\*[or, if the notice is returned unserved, and it is found that the notice to the respondent has not been issued in consequence of the failure of the appellant to deposit, within any subsequent period fixed, the sum required to defray the cost of any further attempt to serve the notice,] the Court may make an order that the appeal be dismissed:

Provided that no such order shall be made although the notice has not been served upon the respondent, if on any such day the respondent appears when the appeal is called on for hearing.

**19. Re-admission of appeal dismissed for default.-**

Where an appeal is dismissed under rule 11, sub-rule (2) or rule 17 or rule 18, the appellant may apply to the Appellate Court for the re-admission of the appeal; and, where it is proved that he was prevented by any sufficient cause from appearing when the

appeal was called on for hearing or from depositing the sum so required, the Court shall re-admit the appeal on such terms as to costs or otherwise as it thinks fit.

**22. Upon hearing respondent may object to decree as if he had preferred a separate appeal.-**

(3) Unless the respondent files with the objection a written acknowledgment from the party who may be affected by such objection or his pleader of having received a copy thereof, the Appellate Court shall cause a copy to be served, as soon as may be after the filing of the objection, on such party or his pleader at the expense of the respondent.

**After Amendment**

**1. Form of appeal. What to accompany memorandum.-**

(2) Every appeal shall be preferred in the form of a memorandum signed by the appellant or his pleader and presented to the Court or to such officer as it appoints in this behalf. The memorandum shall be accompanied by a copy of <sup>1</sup>judgment.

**<sup>2</sup>9. Registry of memorandum of appeal.—**

(1) The Court from whose decree an appeal lies shall entertain the memorandum of appeal and shall endorse thereon the date of presentation and shall register the appeal in a book of appeal kept for that purpose.

(3) Such book shall be called the register of appeal

**11. Power to dismiss appeal without sending notice to Lower Court.-**

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<sup>1</sup> Substituted for the decree appealed from and (unless the Appellate Court dispenses therewith) of the Judgment on which it is founded by Section 31 of Act 46 of 1999

<sup>2</sup> Ibid.

<sup>3</sup>(1) The Appellate Court after fixing a day for hearing the appellant or his pleader and hearing him accordingly if he appears on that day may dismiss the appeal

**12. Day for hearing appeal.-**

<sup>3</sup> (2) Such day shall be fixed with reference to the current business of the Court.

**13. Appellate Court to give notice to Court whose decree appealed from.-**

<sup>4</sup>[ \*\*\* ]

**15. Contents of notice.-**

[ \*\*\* ]

**18. Dismissal of appeal where notice not served in consequence of appellant's failure to deposit costs.-**

[ \*\*\* ]

**19. Re-admission of appeal dismissed for default.-**

Where an appeal is dismissed under rule 11, sub-rule (2) or rule 17 <sup>1</sup> [ \*\*\* ], the appellant may apply to the Appellate Court for the re-admission of the appeal; and, where it is proved that he was prevented by any sufficient cause from appearing when the appeal was called on for hearing or from depositing the sum so required, the Court shall re-admit the appeal on such terms as to costs or otherwise as it thinks fit.

**22. Upon hearing respondent may object to decree as if he had preferred a separate appeal.-**

(3) <sup>2</sup>[ \*\*\* ].

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<sup>3</sup> Substituted by Ibid.

<sup>4</sup> Omitted By Section 31 of Act 46 of 1999

<sup>1</sup> Or rule 18 omitted by Section 31 of Act 46 of 1999

<sup>2</sup> Omitted by Ibid.

**DOCKET OVERLOADING/CRIMINAL CASES – SWEEPING BROOMSTICK OF THE  
SUPREME COURT (SEE SUB HEADING 8.3.6 UNDER “CRIMINAL PROCESS”)**

"Common Cause", A registered Society v. Union of India [(1996) 4 SCC 33, pr.4]

Nature of the Offence OR Punishment of the Offence	Trial Commenced	Case Pending for	Relief to be granted by the concerned criminal Court
Traffic Offences	--	2 years or more due to non-serving summons to accused	Discharge the accused and close the cases
Any case	No	2 years or more	After hearing the PP and other parties, discharge or acquit the accused
Offences non-cognizable and bailable and not of recurring nature	No	2 years or more	Discharge or acquit the accused as the case may be and close such cases
Offences punishable with fine only	No	1 year or more	Discharge or acquit the accused as the case may be and close such cases
Offences punishable with imprisonment upto 1 year with or without fine	No	2 years or more	Discharge or acquit the accused as the case may be and close such cases
Offences punishable with imprisonment upto 3 year with or without fine	No	2 years or more	Discharge or acquit the accused as the case may be and close such cases

*Note: For the purposes of directions above, the period of pendency of criminal cases shall be calculated from the date the accused was summoned to appear in the court.*

*Re: such cases where bail has to be granted*

Punishment of the offence	Trial pending for	Accused in jail for	Relief to be granted by the concerned criminal Court
Not exceeds 3 years with or without fine	For one year or more	6 months or more	Discharge the accused and close the cases
Not exceeds 5 years with or without fine	For two years or more	6 months or more	After hearing the PP and other parties, discharge or acquit the accused
7 years or less with or without fine	For two years or more	1 year or more	Discharge or acquit the accused as the case may be and close such cases

However, the above directions will not apply to certain offences, which have been enlisted in para. 4 of the above judgment.

Further, in "Common Cause", A registered Society v. Union of India [(1996)6 SCC 775], the Supreme Court has further enumerated certain offences to which the above directions in the previous "Common Cause" case shall not apply. Also, the Apex Court has made certain clarifications regarding the above judgment which are as follows:

1. The time-limit mentioned regarding the pendency of criminal cases in paras. 2(a) to 2(f) of our judgment shall not apply to cases wherein such pendency of the criminal proceedings is wholly or partly attributable to the dilatory adopted by the accused concerned or on account of any other action of the accused which results in prolonging in the trial.

2. The phrase "pendency of trials" as employed in paras. 1(a) to 1(c) and the phrase "non-commencement of trial" as employed in paras. 2(b) to 2(f) shall be construed as under:

(a) In cases of trials before the Sessions Court the trial shall be treated to have commenced when charges are framed under Section 228, Cr.PC in the cases concerned.

(b) In cases of trials of warrant cases by magistrates of the cases are instituted upon police reports the trials shall be treated to have commenced when charges are framed under Section 240 of the Cr.P.C. while in trials of warrant cases by magistrates when cases are instituted otherwise than on police report such trials shall be treated to have commenced when charges are framed against the accused concerned under Section 246, Cr.PC

(c) In cases of trials of summons cases by magistrates the trials would be considered to have commenced when the accused who appear or are brought before the magistrate are asked under Section 251 whether they plead guilty or have any defence to make.

R.D.Upadhyay v. State of Andhra Pradesh, [(1996)3 SCC 422, pr.3]

Offence	Case Pending for	Relief to be granted by the concerned criminal Court
Attempt to Murder	More than 2 years	Release on bail of undertrials to satisfaction of courts
Kidnapping, Theft, Cheating, Arms Act,	More than	Release on bail of

Counterfeiting, Customs, under Sec. 326 of IPC, under Section 324 of IPC, Riots and under Sec. 354 of IPC	1 year	undertrials to satisfaction of courts
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*Note: Where undertrial persons may not be in a position to furnish securities, etc., trial courts may consider - keeping in view the facts of each case especially the period spent in jail - releasing them on bail by furnishing personal bonds.*

Raj Deo Sharma (I) v. State of Bihar, [(1998)7 SCC 507, pr.3)

Held, the Code of Criminal Procedure is comprehensive enough to enable the Magistrate to close the prosecution if the prosecution is unable to produce its witnesses in spite of repeated opportunities. Section 309(1) Cr.P.C. supports the above view as it enjoins expeditious holding of the proceedings and continuous examination of witnesses from day to day. The section also provides for recording reasons for adjourning the case beyond the following day. (pr.16)

Directions regarding time-frame for close of prosecution evidence (pr.17)

(i) In cases where the trial is for an offence punishable with imprisonment for a period not exceeding seven years, whether the accused is in jail or not, the court shall close the prosecution evidence on completion of a period of two years from the date of recording the plea of the accused on the charges framed whether the prosecution has examined all the witnesses or not within the said period and the court can proceed to the next step provided by law for the trial of the case.

(ii) In such cases as mentioned above, if the accused has been in jail for a period of not less than one-half of the maximum period of punishment prescribed for the offence, the trial court shall release the accused on bail forthwith on such conditions as it deems fit.

(iii) If the offence under trial is punishable with imprisonment for a period exceeding 7 years, whether the accused is in jail or not, the court shall close the prosecution evidence on completion of three years from the date of recording the plea of the accused on the charge framed, whether the prosecution has examined all the witnesses or not within the said period and the court can proceed to the next step provided by law for the trial of the case, unless for very exceptional reasons to be recorded and in the interest of justice the court considers it necessary to grant further time to the prosecution to adduce evidence beyond the aforesaid time-limit.

(iv) But if the inability for completing the prosecution within the aforesaid period is attributable to the conduct of the accused in protracting the trial, no court is obliged to close the prosecution evidence within the aforesaid period in any of the cases covered by clauses (i) to (iii).

(v) Where the trial has been stayed by orders of the court or by operation of law, such time during which the stay was in force shall be excluded from the aforesaid period for closing the prosecution evidence.

The above directions will be in addition to and without prejudice to the directions issued by this Court in "*Common Cause*" *A Registered Society v. Union of India* [(1996)4 SCC 33] as modified by the same Bench through the order reported in "*Common Cause*" *A Registered Society v. Union of India* [(1996)6 SCC 775].

The present petition was filed by the CBI for clarification/modification of directions in Raj Deo Sharma (I) case by stating that: (1) the said directions are only prospective; and, (2) the time taken by the Court on account of its inability to carry on day-to-day trial due to pressure of work should be excluded.

Following relief was prayed before the Hon'ble Supreme Court:

- (a) to order holding in abeyance the operation of the judgment/order in Raj Deo Sharma (I);
- (b) to clarify that the judgment/order in Raj Deo Sharma (I) would only have prospective effect;
- (c) to clarify that the time taken by the courts on account of their inability to carry on day-to-day trial on account of pressure of work will be excluded;
- (d) to clarify that the exceptions made in para. 4 of the 1st Common Cause Judgment (1996)4 SCC 33 and para. III of 2nd Common Cause Judgment, (1996)6 SCC 775 would still continue;
- (e) to issue directions to the State Governments and Registrars of the High Court to come up with specific plans for the setting up of Additional Courts/Special Courts (permanent/ad hoc) to cope up with pending workload.

*Held,*

- (1) The absence of the presiding officer in a trial court (either on account of the

physical disability or due to the delay in taking over the charge of the court) is a valid cause which disables the prosecution from adducing evidence. Such time can also be excluded by the court from the period which we have prescribed in the judgment for completing prosecution evidence. (pr.10, *Thomas, J.*)

(2) If the tenure of office of a particular person as Public Prosecutor expires he shall continue to hold office and function as Public Prosecutor until his successor takes charge from him. If the office of Public Prosecutor falls vacant on account of any other reason, a period of 3 months shall be excluded from the periods fixed under Directions (i) and (iii) for enabling the State Government to appoint a Public Prosecutor to that office. (pr.11, *Thomas, J.*)

(3) An additional period of one year can be claimed by the prosecution in respect of prosecutions which were pending on the date of judgment in the main appeal, and the court concerned would be free to grant such extension if the court considers it necessary in the interest of administration of criminal justice. As the Court suspended the operation of the judgment from 14-5-1999 till today the said time of suspension will stand excluded from the aforementioned additional period of one year. (pr.15, *Thomas, J.*)

(4) "I am unable to appreciate how the operation of a judgment rendered by the court can be held in abeyance indefinitely when there is no appeal or review against the same. Prayer (a) in the petition is unsustainable and it cannot be countenanced by this Bench. As regards prayer (e), directions were being given by this Court again and again ever since *Hussainara Khatoun (I) v. Home Secretary, State of Bihar* to the State Governments and it is the mandatory duty of all the State Governments to take

appropriate steps to comply with such directions. If the State Governments are interested in the proper administration of justice, they should fulfil their constitutional obligations, as repeatedly pointed out by this Court in its earlier judgments.” (pr.24, *Srinivasan, J.*)

### Case filings

CCH1 PRL CITY CIVIL & SESSIONS JUDGE

O.S. 796 2003

31/01/2003 INJUNCTION SUIT

21/01/2003

FOR PERMANENT INJUNCTION RESTRAINING THE DEFENANTS 2 AND 3 FROM CHANGING OR ALTERING OR PUTTING UP ANY CONSTRUCTION ON SITE NO.8

Order 7 Rule 1 & 2 CPC

RAJESH MB 4

SOMESH P 3

21000 825

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### Index of Pleadings

PRL CITY CIVIL & SESSIONS JUDGE

O.S. 8517 2002

NO.	DATE	DESCRIPTION	FILE NO.	FILE NO.	FILE NO.
1			1	5	FILE NO.
2			0	0	
3			6	0	
4			7	23	FILE NO.
5			24	0	
6			245	0	
7			0	0	FILE NO.
8			26	0	FILE NO.

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Buttons: [SEARCH] [PRINT] [GO]

### Fee Details

PRJ. CITY CIVIL & SESSIONS JUDGE

O.S. 8522 2002

SL	CONTRACT	QUANTITY	DATE	DESCRIPTION	AMOUNT	TAXES
2	64264/2002	1	24/06/1905	Vakalath Fee		
3	64265/2002	20	24/06/1905	Process Fee		

Court Fee 50

Buttons: [OK] [Cancel] [Print] [Refresh] [Close]

### Court Cases Assignments

PRJ. CITY CIVIL & SESSIONS JUDGE

O.S. 8157 2002

CCH14

ADDL. CITY CIVIL & SESSIONS JUDGE

18/02/2002

Buttons: [OK] [Cancel] [Print] [Refresh] [Close]

## Party Details

PR. CITY CIVIL & SESSIONS JUDGE

O.S. 756 2003

AG1

Mr. KUMAR RAJESH M

SIDDAPPA

12/03/1968 35

1017/63, 1ST MAIN, 5TH CROSS, RAJAJI NAGAR, BLORE

SIDDESH BANGALORE

2356278 INDIAN

KARNATAKA HINDU

BANGALORE Bangalore BANGALORE NORTH

YESHWANTHAPURA

Save Clear OK

## Suit Schedule

1

BANGALORE HOUSE

BANGALORE NORTH

YESHWANTHAPURA HOBLI

24 MAHALAKSHMI 6TH PHASE

5TH 28 TH CROSS

285 23 MAHALAKSHMI LAYOUT

Clear OK



## Certified Copy

<b>CCH1</b>	<b>PRL CITY CIVIL &amp; SESSIONS JUDGE</b>		
<b>O.S.</b>	<b>123</b>	<b>2001</b>	
<b>18/02/2003</b>		<b>11/02/2003</b>	
<b>L AND T KOMATSU LTD</b>		<b>SABAYYA</b>	
<b>SHAMBHU</b>			

## Enquiry Form(Ex. Case Search)

<b>PRL CITY CIVIL &amp; SESSIONS JUDGE</b>					
<b>O.S.</b>		<b>8186</b>	<b>2002</b>		
<b>Filing Date : 04/12/2002</b>			<b>Nature Of Case : INJUNCTION</b>		
<b>Pl/Pet</b>			<b>De/Res</b>		
<b>NANJUNDA SETTY B C</b>			<b>NARAYANAPPAR</b>		
<b>In The Court Of VII ADDL. CITY CIVIL SESSIONS JUDGE, Bangalore</b>					
<b>01/01/2003</b>	<b>APPEARANCE</b>		<b>Rejected</b>		<b>CCH19</b>
<b>21/12/2002</b>	<b>SUMMONS</b>	<b>HEARING ON IA</b>	<b>Heard on IA</b>	<b>1/1/2003</b>	<b>CCH19</b>
<b>19/12/2002</b>	<b>REJECTION O...</b>	<b>OBJECTION</b>	<b>No Action</b>	<b>21/12/2002</b>	<b>CCH19</b>
<b>17/12/2002</b>	<b>SUMMONS</b>		<b>No Action</b>	<b>19/12/2002</b>	<b>CCH19</b>

# Enquiry Form(Ex. Case Search)

PRL CITY CIVIL & SESSIONS JUDGE	
2002	O.S.
SEARCHED	
INDEXED	
SERIALIZED	
FILED	
APR 10 2002	
COURT HOUSE	
MUMBAI	
SEARCHED	
INDEXED	
SERIALIZED	
FILED	
APR 10 2002	
COURT HOUSE	
MUMBAI	
SEARCHED	
INDEXED	
SERIALIZED	
FILED	
APR 10 2002	
COURT HOUSE	
MUMBAI	

**Suit Register**

In the court of XXVII ADDL. CITY CIVIL & SESSIONS JUDGE (CCH9

)

At: Bangalore (Dist:BANGALORE)

---

Case Number : O.S. 1 / 2003

**Date of Filing : 01/01/2003**

**Plaintiff.**

1 KARNATAKA LEGISLATIVE ASSEMBLY

Address: REP. BY ITS SECRETARY,  
VIDHANA SOUDHA,  
BANGALORE.

2 LEGISLATOR'S HOME

Address: REP. BY ITS SECRETARY,  
BANGALORE.

3 ESTATE OFFICER

Address: KARNATAKA LEGISLATIVE ASSEMBLY,  
LEGISLATOR'S HOME  
BANGALORE.

**Defendent.**

1 SAPPHIRE DIRECTMARKETING PVT LTD

Address: NO.172, SUBBARAMASHETTY ROAD,  
NETTAKALLAPPA CIRCLE,  
BASAVANAGUDI,  
BANGALORE-4

**Date of Hearing:**

**Nature of Case: MONEY SUIT**

**Provision of Law: Order 7 Rule 1 & 2 CPC**

**Jurisdictional Value: 0**

**Date of Cause of Action: 03/03/2001**

**Particulars Of Claim: FOR RECOVERY OF A SUM OF RS. 2,40,000.00  
TOGETHER WITH  
CURRENT INTERST AT THE RATE OF 24 PERCENT P.A.**

FROM THE DATE OF SUIT TILL THE DATE OF REALISATION WITH  
THE COURT COSTS AND OTHER RELIEFS.

Plaintiff's Advocate's Name: KOTRE.N.G. DIST.GOV'T. PLEADER,  
BANGALORE.

Defendant's Advocate's Name:

IA's Details:

Judgement:

**Final Order with Date:  
Particulars of any Order Made an  
Appeal or Revision.**

**Caveat Register**

**In the court of PRL. CITY CIVIL & SESSIONS JUDGE**

**At : Bangalore District : BANGALORE**

<u>Caveat No</u>	<u>Lodging Date</u>	<u>Caveater</u>	<u>Plf./Apl.</u>	<u>Advocate</u>	<u>Case No</u>
Misc 6268/200 2	30/12/200 2 11:35 AM	SANJEEVA CARIAPPA	SANJEEVA CARIAPPA	JAYPEE ASSOCIATES	
Misc 6269/200 2	30/12/200 2 11:57 AM	GOPALAN ENTERPRISES	GOPALAN ENTERPRISES	CHALAPATHY S K V	
Misc 6270/200 2	30/12/200 2 11:58 AM	GOPALAN ENTERPRISES	GOPALAN ENTERPRISES	CHALAPATHY S K V	
Misc 6271/200 2	30/12/200 2 11:59 AM	GOPALAN ENTERPRISES	GOPALAN ENTERPRISES	CHALAPATHY S K V	
Misc 6272/200 2	30/12/200 2 12:01 PM	GOPALAN ENTDERPRISES	GOPALAN ENTDERPRISES	CGHALAPATHY S K V	
Misc 6273/200 2	30/12/200 2 12:34 PM	BALAKRISHNA MURTHY R	BALAKRISHNA MURTHY R	NAGARAJA	
Misc 6274/200 2	30/12/200 2 1:11 PM	SUDHA RANI	SUDHA RANI	SAVANUR N	

Misc 6275/200 2	30/12/200 2 1:17 PM	BATRA DEVELOPMENTS	BATRA DEVELOPMENTS	PARTY INPERSON
Misc 6276/200 2	30/12/200 2 1:54 PM	MOHAMMED FAROOQ.K.	MOHAMMED FAROOQ.K.	NNRAJ URS
Misc 6277/200 2	30/12/200 2 3:43 PM	DHANALAKSHMI M	DHANALAKSHMI M	KRISHNA MURTHY R T
Misc 6278/200 2	30/12/200 2 3:45 PM	DHANALAKSHMI M	DHANALAKSHMI M	KRISHNAMURTHY R T
Misc 6279/200 2	31/12/200 2 11:11 AM	DEVARAJ	DEVARAJ	SIDDAPPA S
Misc 6280/200 2	31/12/200 2 12:51 PM	CENTURION BANK LTD.,	CENTURION BANK LTD.,	BANGALORE LAW ASSOCIATES
Misc 6281/200 2	31/12/200 2 1:17 PM	BLUE FOX LATITUDE	BLUE FOX LATITUDE	MUJTABA H
Misc 6282/200 2	31/12/200 2 1:17 PM	BLUE FOX LALTIDUE	BLUE FOX LALTIDUE	
Misc 6283/200 2	31/12/200 2 1:30 PM	CHOLAMANDALA M INV.AND FIN.CO.LTD.,	CHOLAMANDALA M INV.AND FIN.CO.LTD.,	
Misc 6284/200 2	31/12/200 2 1:31 PM	CHOLAMANDALA M INV.& FIN.CO.LTD.,	CHOLAMANDALA M INV.& FIN.CO.LTD.,	SRIKANTIAH B L
Misc 6285/200 2	31/12/200 2 1:32 PM	CHOLAMANDALA M INV.& FIN.LTD.,	CHOLAMANDALA M INV.& FIN.LTD.,	SRIKANATIAHA B L
Misc 6286/200 2	31/12/200 2 1:33	CHOLAMANDAL M	CHOLAMANDAL M INVE.&	SRIKANTIAH B L

### FEE DETAILS REPORT

In the PRL. CITY CIVIL & SESSIONS JUDGE, Bangalore the list of fee transactions made on 10/1/2003.

SL NO	Fee Num.	Case Number	Fee Paid	Fee Type
1	71964/2002	Caveat 148/2003	5	Court Fee
2	71965/2002	Caveat 148/2003	2	Vakalath Fee
3	71966/2002	Caveat 148/2003	20	Process Fee
4	71967/2002	Caveat 149/2003	5	Court Fee
5	71968/2002	Caveat 149/2003	1	Vakalath Fee
6	71969/2002	Caveat 149/2003	8	Process Fee
7	71970/2002	O.S. 8067/2002	22	Process Fee
8	71971/2002	Caveat 150/2003	5	Court Fee
9	71972/2002	Caveat 150/2003	5	Vakalath Fee
10	71973/2002	Caveat 150/2003	10	Process Fee
11	71974/2002	Caveat 151/2003	5	Court Fee
12	71975/2002	Caveat 151/2003	1	Vakalath Fee
13	71976/2002	Caveat 151/2003	8	Process Fee
14	71977/2002	Caveat 152/2003	5	Court Fee
15	71978/2002	Caveat 152/2003	5	Vakalath Fee

**REGISTER OF FEE REALIZED (Reg.-VII & Reg.-VIII)**

*Details of the fees realized in the court of PRL. CITY CIVIL & SESSIONS JUDGE, Bangalore on 10/1/2003.*

Fee Type	No. Applications	Fee in RS.
Process Fee	134	3019.00
Court Fee	88	743688.00
Vakalath	97	211.00
IA Fee	84	496.00
Non-Judicial Fee	-	-
App./Memo Fee	12	36.00
<b>Total fee Collected:</b>		<b>747450.00</b>

**In The Court of PRL. CITY CIVIL & SESSIONS JUDGE**

**At: Bangalore**

**( CCH1 )**

**Cause List prepared for the date**

**11/02/2003**

**Priority Cases (As Per Circular No. 5/99 Dated 20/12/1999 of Honourable High Court)**

**Sl. No Case Number Sub Stage**

**For: ARGUMENTS**

1 O.S. 3434/1996 For : HEARING ON IA

**Sl. No Case Number Sub Stage**

**For: SUMMONS**

1 Misc 71/2003 For : NOTICES

2 Misc 87/2003 For : NOTICES

**For: ARGUMENTS**

1 Misc 167/2002 -

2 Misc 590/2002 -

3 O.S. 4350/1999 -

**For: FRAMING OF CHARGE OR PLEA**

1 SC 583/2002 For : ARGUMENTS BEFORE CHARGE

**For: ARGUMENTS**

1 CRL.A 275/2002 -

2 CRL.R.P. 9/2003 -

3 CRL.R.P. 10/2003 -

4 CRL.R.P. 11/2003 -

5 CRL.R.P. 12/2003 -

6 CRL.R.P. 13/2003 -

7 CRL.R.P. 14/2003 -

8 CRL.R.P. 15/2003 -  
**For: ORDERS**  
 1 CRL.R.P. 148/2002 -  
 2 CRL.R.P. 396/2002 -  
 3 CRL.R.P. 397/2002 -

**REGISTER No.IX (CIVIL) (R.P. 37)**

**COURT DIARY**

**In the Court of PRL. CITY CIVIL & SESSIONS JUDGE AT (CCH1)  
 Bangalore**

**Date: 20/01/2003**

Case No Date Note	Stage	Sub Stage	Action Name	Next
----------------------	-------	-----------	-------------	------

Misc 539/2002 15/2/2003	SUMMONS	NOTICES	Notice	
Misc 567/2002 1/2/2003	SUMMONS	OBJECTIONS		No Action
O.S. 8150/2002 21/1/2003	SUMMONS	STEPS		No Action
Misc 773/1999 5/2/2003	ARGUMENTS	-		No Action
Misc 53/2000	ORDERS	-	Arguments Heard Respt. Counsel absent, taken as heard.	28/1/2003
Misc 469/2002 13/2/2003	ARGUMENTS	-		No Action
Misc 866/2002 14/2/2003	ARGUMENTS	-		No Action

Misc 891/2002

ARGUMENTS - Written  
Statement/Obj. 27/1/2003 vakalath filed, IA U/o 9 R.7  
allowed Filed

O.S. 4350/1999

ARGUMENTS -  
11/2/2003

No Action

**Work Done Summary**

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No. of Cases Listed: 43

No. of Witnesses Examined: 2

No. of I.A.s Desposed: 1 (Contested) (Non-Contested) No. of Cases Desposed:  
7 = 4+ 3

---

**Hearing Date: 24/02/2003**  
Govt. of Karnataka

**CCH15**  
Appendix-B  
RW order XLVIII Rule 3

Summons for Disposal of  
Suit (O.V.nr.1 and 5)

**VIII ADD. CITY CIVIL & SESSIONS JUDGE, Bangalore**

**O.S. 6047/2000**

**Plaintiff**  
**CHAND PASHA Vs.**

**Defendant**  
**BASAVARAJ G**

**TO,**

**BASAVARAJ G (Defendant - 1) NO.20/2, NEW HIGH  
SCHOOL ROAD  
BANGALORE.**

Where as CHAND PASHA has instituted a suit against you for  
DECLARATION &  
POSSESSION; you are required to file your Written Statement within 30 days  
of  
receiving of summons. You are also required to appear in this Court in person  
or by a pleader duly instructed and able to answer all material questions  
relating to the suit, or who shall be accompanied by some person able to  
answer all such questions on the date 24/2/2003: at 11-00 AM to answer the  
claim, and as the day fixed for the final disposal of the suit. You must be  
prepared to produce on that day all the witnesses upon whose evidence and all  
the documents upon which you intend to rely in support of your defence.

Take notice that, in default of your appearance on the day above mentioned  
the suit will be heard and determined in your absence.

Given under my hand and the seal of the Court this day 11/2/2003 By the  
order of the court.

A copy of the Plaint is attached.

Sheristedar

Summons No. 20264/2002 11/02/2003

**Hearing Date: 10/01/2003**  
**Govt. of Karnataka**

**CCH1**  
**Appendix-B**

**Notice To Show Cause**  
**(General Form)**  
**Bangalore**  
**Form No. 4**

**PRL. CITY CIVIL & SESSIONS JUDGE,**  
**Misc 524/2002**

**Petitioner**  
**LAKSHMIBAI**  
**CHANDRASHEKARAI AH**

**Vs.**

**Opponent**

**TO,**

**CHANDRASHEKARAI AH (Defendant - 1) 855, 5, A-CROSS,**  
**10TH MAIN, II BLOCK,**  
**BANASHANKARI FIRST STAGE,**

Where as the above named LAKSHMIBAI has made an application to this court against you Under Order 38 rule 5 of CPC seeking attachment before judge.

You are hereby required to appear in this Court on 10/1/2003 at 11-00 AM in person or by a pleader duly instructed in this behalf , and to show cause against the application, failing wherein, the said application will be heard and determined in your absence.

Given under my hand and the seal of the Court this day 11/2/2003

By the order of the Court.

Summons No. 1162/2003

**CMO**