

HIGH COURT OF DELHI: NEW DELHI

NOTIFICATION

No.62/Rules/DHC

Dated: 13.07.2022

Whereas the High Court of Delhi, by way of amendments, proposes to amend the existing Rules in various Orders in the First Schedule of the Code of Civil Procedure, 1908 (Central Act of 1908), which would read as under :-

A. In Order I

1. After Rule 10(2), the following new Rule 10(2A) shall be added:-

“10(2A) Where,

a. after examination under Order X; or

b. after production of documents under Order XI Rule 14; or

c. after considering the report of the Commissioner appointed under Order XXVI Rule 9;

it appears to the Court that a person may have an interest relevant to the adjudication of the suit, and to effectually and completely adjudicate upon and settle all the questions involved in the suit his presence is necessary, the Court shall order the name of such person be added.”

2. Rule 10(4), be substituted by the following:-

(4) **Where party added, plaint to be amended.-** Where any party is added pursuant to sub-rules above, the plaint shall, unless the Court otherwise directs, be amended in such manner as may be necessary, and copies of the amended plaint shall be served on all parties.

If the plaintiff does not carry out the amendment so ordered, the Court may pass such orders including dismissal of the suit.”

B. In Order II

Rule 3 shall be substituted by the following:-

“3. Joinder of causes of action.—

(1) Save as otherwise provided, a plaintiff may unite in the same suit several causes of action against the same defendant, or the same defendants jointly; and any plaintiffs having causes of action in which they are jointly interested against the same defendant or the same defendants jointly may unite such causes of action in the same suit.

(2) Where causes of action are united, the jurisdiction of the Court as regards the suit shall depend on the amount or value of the aggregate subject-matters at the date of instituting the suit.”

C. In Order VI

1. Rule 14A(1) shall be substituted by the following:-

“14A. Address for service of notice.- (1) Every pleading, when filed by a party, shall be accompanied by a statement in the prescribed form regarding the address of the party, which form shall be signed as provided in Rule 14.”

2. After Rule 14A(1), following Explanation shall be added:-

“*Explanation* - The expression ‘address’ for the purpose of this rule shall include the present and/ or permanent postal address; publicly available address; the email address(s); the phone number(s) {mobile and landline}; and may also include website/ domain name and any other recorded address”

3. New sub-rule 14A(1a) shall be added after Rule 14A(1) in the following manner:-
“14A(1a). Every pleading shall also be accompanied with a self attested copy of an official document establishing identity of that person.”

D. In Order X

Rule 2 shall be substituted by the following:-

“2. Oral examination of party or any other person.-

(1) At any stage where the Court deems fit, with a view to elucidating matters in controversy, it shall orally examine such of the parties or any other person the Court considers necessary to examine, in relation to subject proceedings, including third party rights or interests, if any.

(2) The Court may, if it thinks fit, put in the course of such examination, questions suggested by any party or such person examined by the Court. ”

E. In Order XI

Rule 14 shall be substituted by the following:-

“**14. Production of documents.** - It shall be lawful for the Court, at any time during the pendency of any proceedings, to order the production of such documents in the possession or power of any party or other person, upon oath, relating to any matter in question in such proceedings including third party rights or interests, as the Court shall deem fit; and the Court may deal with such documents, in such manner as shall appear just.”

F. In Order XX

Rule 5 shall be substituted by the following:-

“5. Court to state its decision on each issue.- In all suits including those in which issues have been framed, the Court shall state its finding or decision, with the reasons therefore, upon each separate issue, unless the finding upon any one or more of the issue is, sufficient for the decision of the suit and where required, the judgment shall clearly describe the property including the status of its ownership and/ or occupancy and may also refer to a duly proved site plan.”

G. In Order XX-A

1. After Rule 1, the following shall be added:-

“Supplementary provisions for award of Costs to be awarded by Courts subordinate to High Court.”

2. Rule 2, be substituted by the following Rule 2 and new rules 3 to 11 to be added after that:-

“2. Power of Court to impose costs.- (1). If the Court considers any party abusing the process of Court or in any manner considered dilatory, vexatious, mala fide and abuse of process by them, the Court shall require the delinquent party to make deposit / payment upfront, in the manner directed by Court of such costs as the Court deems appropriate, before proceeding further in the matter.

(2) In addition to exercise of powers under Rule 2(1) above, the Court may impose suitable costs upon any party at any stage of the proceedings, including at the stage of filing any interlocutory application; framing of issues; determining order and conduct of recording evidence etc., if it considers imposition of such costs just, necessary and proper, according to the proceedings in the matter.

(3) While determining costs, the Court may also take into consideration factors, such as, inconvenience caused to parties/ witnesses/ other persons connected with the proceedings; previous conduct of parties; the stage at which the offending conduct is committed by the delinquent party; the probability and likelihood of success of vexatious efforts of the delinquent party; the relevancy of number and nature of witnesses; questions (*including depositions by way of examination-in-chief*) put to the witnesses and such other conduct as the Court considers inappropriate.

(4) Failure of the said party in making payment/ deposit of costs may result in all consequences provided in the Code for defaults and adverse orders being passed against the said party, as the Court deems appropriate and proper, besides

enabling the other party to file execution proceedings against the delinquent party for recovery of said costs.

3. Imposition of actual costs.- In addition to imposition of costs, as provided in this Chapter, the Court shall award costs guided by and upto actual costs as borne by the parties, even if the same has not been quantified by parties, at the time of decreeing or dismissing the suit. In this behalf the Court will take into consideration all relevant factors including (but not restricted) the actual fees paid to the Advocates/ Senior Advocates; actual expenses for publication, citation etc.; actual costs incurred in prosecution and conduct of suit including but not limited to costs and expenses incurred for attending proceedings, procuring attendance of witnesses, experts etc.; execution of commissions; when any reasonable offer to settle is made by a party and unreasonably refused by the other party; denial of documents due to frivolous reasons at the stage of admission/ denial and all other legitimate expenses incurred by a party, which the Court orders to be paid to any party.

Notwithstanding anything elsewhere contained, the Court may award costs at all or any stage of the case, as the facts and circumstances may warrant.

In addition to imposition of costs as above, the Court may also pass a decree for costs as provided in Sections 35-A and 35-B of the Code or under any applicable law.

4. Time for filing Certificate of fees.— The Certificate of fees shall be filed before pronouncement of Judgment, and if not so filed, then with the leave of Court before Decree is drawn up.

5. Contents of Certificate of fees.— The Certificate of fees shall, inter-alia, set out:—

(a) court fee

(b) process fee spent;

(c) expenses of witnesses, including the actual reasonable expenses incurred on travel, boarding and lodging, if any, and other incidental expenses;

(d) Advocate's fee including the fee of a Senior Advocate, if any;

(e) expenses of typing, photocopying and expenses incurred for sending summons by Registered post, speed post, courier, fax, electronic mail service and by such other modes as may have been directed by Court.

(f) such other amounts as may be allowable under these Rules or as may be ordered by the Court as costs taking into account:—

(i) judicial time consumed in litigation;

- (ii) delay in service of summons or efforts made in serving summons on the defendant, as the case may be;
- (iii) delay caused by any of the parties by raising frivolous issues or unnecessary objections during the proceedings or during recording of evidence;
- (iv) failure of a party to effect discovery of documents or its refusal to answer interrogatories;
- (v) incorrect denial of facts/ documents, thus, protracting trial;
- (vi) monetary and other stakes involved in the proceedings;
- (vii) costs incurred on execution of commission; and
- (viii) any other cost which Court may deem fit and proper.

6. Evidence for costs/ expenses.—Documentary evidence, if any, in support of payments made shall accompany Certificate of fees. If any party raises any objections to the Certificate of fees/ documents so filed, such objections shall be determined by Court.

7. When an Advocate appears for different parties in the same matter.—Where an Advocate appears for different parties in the same suit or matter, only one set of fees shall be allowed.

8. Finality of costs.— If no Certificate of fees is filed within the time prescribed, the costs computed in the decree shall be final.

9. Costs in Execution.—The Court may allow, only such costs as it deems fit and appropriate incurred by a party for effecting transmission of the decree to another court. In addition, the Court executing the decree may also award costs of execution as it considers fit and appropriate, in accordance with these Rules/ rules applicable to the executing court.

10. Meaning of proportionate costs.—Where ‘*proportionate costs*’ or ‘*costs in proportion*’ are allowed, such costs shall bear the same proportion to the total costs, as the successful part of the claim bears to the total claim.

11. Costs against multiple plaintiffs/defendants.— Court to order proportion in which payable, time period for payment and mode of recovery.”

H. In Order XXI

1. Rule 10 be read as Rule 10(1) and new Rule 10(2) be added in the following manner:-

“(2) The Court shall execute the decree as expeditiously as possible and in this behalf, conduct proceedings taking aid of all measures, not limited to appointment of commissioner, use of technology, and any other step necessary for expeditious completion of proceedings.”
2. At the end of Rule 24(1), following sentence shall be added:-

“Such process/ warrant shall specifically authorize the executing officer to videograph and use all other information technology tools to record the process/ event of execution proceedings.”

3. At the end of Rule 98(2) following words shall be added:-

“and impose compensatory and exemplary costs.”

4. Rule 101 be read as Rule 101(1) and new Rule 101(2) be added in the following manner:-

“(2) Every such application under Rules 97 or 99 claiming any right, title or interest in the property shall be accompanied with all documents and material in possession or power of the applicant. No document or material in the possession or power of such applicant which should have been filed alongwith the application shall be received at any subsequent stage of the proceedings unless sufficient cause is shown to the Court for non-production thereof.

Provided further if such person has derived title from the judgement debtor or was aware of the suit proceedings either through the judgement debtor or otherwise has chosen not to oppose the grant of relief in the suit with due diligence, the executing court may bind such person to the decree, leaving such person’s remedies against the judgement debtor, open.

Provided further, that, if an application is filed by a third party, the Court shall, prior to issuing notice, determine whether such third party had knowledge of proceedings in which decree was passed and had failed to exercise due diligence in impleading itself or opposing the grant of relief.”

I. In Order XXVI

Rule 9 shall be substituted by the following:-

“9. Commissions to make local investigations.—

(1) In any suit in which the Court deems a local investigation to be requisite or proper for the purpose of elucidating any matter in dispute, or of ascertaining the market-value of any property, or the amount of any mesne profits or damages or annual net profits, the Court may issue a commission to such person as it thinks fit directing him to make such investigation and to report thereon to the Court.

(2) In any proceeding concerning or referring to immovable/ movable/ intangible property, the Court may at any stage, issue a commission to such person as it thinks fit, for ascertaining the accurate description, possession, status, ownership, control or management of such property, directing him to make such investigation and to report thereon to the Court.

Provided that, where the State Government has made rules as to the persons to whom such commission shall be issued, the Court shall be bound by such rules.”

J. In Order XXXIX

1) Rule 2A shall be substituted by the following:-

“2A. Consequence of disobedience or breach of injunction.—(1) In the case of disobedience of any injunction granted or other order made under rule 1, rule 2 or rule 7A or breach of any of the terms on which the injunction was granted or the order made, the Court granting the injunction or making the order, or any Court to which the suit or proceeding is transferred, may order the property of the person guilty of such disobedience or breach to be attached, and may also order such person to be detained in the civil prison for a term not exceeding three months, unless in the meantime the Court directs his release.”

2) Rule 7A to be inserted after the existing Rule 7 in the following manner:-

“7A. Other interim measures.— Notwithstanding anything contained elsewhere in the Code, in a suit for recovery of money, the Court may at any stage, if satisfied that a case is made out for securing any sum, direct any party to disclose on oath its assets sufficient to satisfy the claim. In appropriate cases, the Court may also demand security from any party to ensure satisfaction of the decree that may be passed against him.”

K. In Order XLIII

Rule 1(r) shall be substituted by the following:-

“1(r) an order under rule 1, rule 2,1 [rule 2A], rule 4, rule 7A or rule 10 of Order XXXIX;”

L. Appendix C

Following new Form 6A shall be added:-

“No. 6A
[Order XI, Rule 14]
(Title as in No. 1, supra)

I, _____, son/ daughter/ child/ wife of _____, aged ____ years, resident of _____ do hereby solemnly affirm/ declare on oath as under –

1. I am Plaintiff / Petitioner / Decree Holder / Defendant / Respondent / Judgment Debtor/ Objector / Applicant in the above matter.
2. I declare and state (briefly) that I have the following interest in the subject property.

3. I do not have knowledge of any third party interest in the property.

Or

I have knowledge of a third party interest in the property, the details of which are set out below:-

(a) ...

(b) ...

(c) ...

However, I do not have any documents in respect of such third party interests

Or

I have knowledge of third party interest(s) in the property, the documents in respect of such third party interest(s), which are in my possession and power are given below:-

(a) ...

(b) ...

(c) ...

4. I declare and state, that except the documents referred to in paragraph 3 above, I do not possess any other relevant document in relation to subject property. I am filing the originals/ true and correct legible copies of the below noted documents along with this affidavit:-

(a) ...

(b) ...

(c) ...

5. I further declare and state, that other than the documents referred to in para 4 above, though not in possession, I have power to produce the following documents, true and correct legible copies of which are filed along with this affidavit: -

(a) ...

(b) ...

(c) ...

6. I further declare that other than the documents referred to in paras 4 & 5 above, the following documents relate to the subject property, but I have no power to produce the same:-

(a) ...

(b) ...

(c) ...

7. I say that the contents of the aforesaid affidavit are true and correct to my knowledge. No part of it is false and nothing material has been concealed therefrom.

Verification [...]"

AND whereas the objections, in writing, from any person, with respect to said amendment are invited within a period of one month i.e. 30 days from the date of which this Notification is published in Part-II, Section-I of Delhi Gazette Extraordinary.

AND whereas, the objections may be sent to the Registrar General of the High Court of Delhi, at the following address/E-mail address :-

High Court of Delhi,
Sher Shah Marg,
New Delhi – 110 503.
E-mail : rg.dhc@nic.in

BY ORDER OF THE COURT
Sd/-
(RAVINDER DUDEJA)
REGISTRAR GENERAL