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HIGH COURT OF ORISSA, CUTTACK
PUBLISHED UNDER THE AUTHORITY

NOTIFICATION

The 23rd July, 2020

No.889-X-3/2020/R-In exercise of the power conferred by sub-section (2A) of Section 16 of the Admiralty (Jurisdiction and Settlement of Maritime Claims) Act., 2017 (Act 22 of 2017) as amended by the Admiralty jurisdiction and Settlement of the Maritime Claims (Removal of Difficulties) Order, 2017 made by the Ministry of Shipping, Govt. of India vide SO 3349 (E) dated the 16th October, 2017 and corrigendum published vide SO 3562(E) dated the 8th November, 2017, the High Court of Orissa makes the following Rules:-

1. Short Title and Commencement : -

(a) These Rules may be called The Orissa High Court Admiralty (Jurisdiction and Settlement of Maritime Claims) Rules, 2020.

(b) They shall come into force on the date of their publication in *Odisha Gazette*.

2. Definitions:

(1) In the construction of these Rules, the following terms shall have the respective meanings hereinafter assigned to them:

(a) 'Act' means The Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017.

(b) 'Action *in Personam*' or 'Suit *in Personam*' means Admiralty Action *in Personam*.

(c) 'Action *in Rem*' or 'Suit *in Rem*' means Admiralty Action *in Rem*.

(d) 'The Court' means the High Court of Orissa.

(e) 'Electronic Track Data' means Digital or Electronic Recording of the track of the vessel including any associated visual recording or shore based

- automatic identification system, electronic chart and display information system or a voyage data recorder.
- (f) 'Judge' means Judge of the High Court of Orissa.
 - (g) 'Marshal' means the Marshall or his substitute or other Officer who may be appointed by the Chief Justice to execute the process of the Court in exercise of its Admiralty jurisdiction.
 - (h) 'Registrar' means Registrar (Judicial) of the Court or any other Officer authorized to perform the duties of such Registrar by the Chief Justice.
 - (i) 'Registry' means the Office of the Registrar.
 - (j) 'Suit' means any suit, action or other proceedings instituted in the Court in its Admiralty Jurisdiction.
 - (k) 'Affidavit', in addition to its ordinary meaning, includes a statement in writing made by a person either on a solemn affirmation or by way of an oath.
 - (2) The words and expressions used herein but not defined and defined in the Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017 shall have the same meanings assigned to them in those Acts.

3. Institution of the suit: - A suit shall be instituted by a plaint drawn-up, subscribed and verified according to the provisions of the Code of Civil Procedure, 1908 as amended from time to time. Save that if the suit is *in rem*, the defendant may (subject to such variations as the circumstances may require) be described as "the owners and parties interested" in the vessel or other properties proceeded against instead of by name.

A plaint shall be presented to the Registrar, either in person duly identified by an Advocate or through an Advocate in whose favour the plaintiff has executed a Vakalatnama.

4. Admiralty Suit Register: All suits filed in the admiralty jurisdiction of the Court, whether *in rem* or *in personam*, shall be entered in a book to be kept in the Registry called "Admiralty Suit Register" in which the number of the suit and the names of the parties will be entered including the name of the ship or its sale proceeds.

5. Arrest warrant after filing affidavit: - In a suit *in rem*, a warrant for the arrest of property may be issued at the instance either of the plaintiff or of the defendant at

any time after the suit has been instituted, but no warrant of arrest shall be issued until an affidavit by the party or his agent has been filed. The affidavit shall comply with the following provisions and shall state:

(a) (i) the name and description of the party at whose, instance the warrant is to be issued, the nature of the claim or counter-claim, and that the claim or counter claim has not been satisfied.

(ii) the name of the person who is liable for the maritime claim.

(iii) the name, nature and the national character of the property to be arrested and the name of the owner thereof.

(b) In a suit of wages or of possession, the affidavit shall state the national character of the vessel proceeded against; and if against a foreign vessel, that notice of the institution of the suit has been sent by registered post/speed post to the nearest consul or diplomatic representative in India of the State to which the vessel belongs and a copy of the notice shall be annexed to the affidavit.

(c) In a suit of bottomry, the bottomry, the bottomry bond, and if it is in a foreign language, along with a translation thereof, shall be produced for the inspection and perusal of the Registrar and a copy of the bond or of the translation thereof certified to be correct shall be annexed to the affidavit.

(d) In a suit for distribution of salvage, the affidavit shall state the amount of salvage money awarded or agreed to be accepted, and the name, address and description of the party, holding the same.

6. Warrant may be issued before affidavit by leave: - The Court may in its discretion allow the warrant to issue, although the affidavit in Rule 5 mentioned may not contain all the required particulars and the Court may also waive, in a suit of wages, the requirement as to service of the notice, and in a suit of bottomry, the production of the bond.

7. Warrant may be issued ex-parte:-The application to arrest property may be allowed *ex-parte*, unless the Court otherwise directs.

8. Suits *in rem* when service not required:- In suits *in rem*, no service of writ of summons or warrant shall be required when the defendant or his Advocate waives service and undertakes in writing to appear and to give security or to pay money into Court in lieu of security.

9. Non-appearance of defendant in a suit *in rem* and the consequences thereof: The defendant and his Advocate not entering appearance or giving security or paying money into the Court in lieu of security in a suit *in rem*, in pursuance of his written undertaking so to do shall render the ship liable to attachment.

10. Service of Process in a suit *in personam*:

- (a) In the case of a suit *in personam* or in a suit where any of the defendants is sued *in personam*, service of summons on such defendant would be in accordance with the prevailing rules and practice.
- (b) In the case of any defendant sued *in personam*, service of summons and process out of the territorial jurisdiction of the Court or out of India is permissible only with leave of the Court, if,
 - (i) The defendant at the time of commencement of action by the Court is ordinarily a resident or has a place of business within the territorial jurisdiction of the Court, or;
 - (ii) Part of the cause of action arose within the territorial limits of the Court, or ;
 - (iii) The defendant has submitted or agreed to submit or acquiesced to the jurisdiction of the Court.

11. Service by whom made: - Every writ, warrant and process shall be served by the Marshal or his substitute. Every warrant shall be returned to the Registrar within seven days from the date thereof.

12. Service how effected: - In suits *in rem*, service of summons or warrant against ship, freight or cargo on board, is to be effected by nailing or affixing the original writ or warrant for a short time on the main mast or on the single mast of the vessel or

on any conspicuous part of the vessel and by taking off the process, leaving a true copy of it nailed or affixed in its place.

13. Service how effected on cargo landed: - If the cargo has been landed or transshipped, service of the writ or warrant to arrest the cargo and freight shall be effected by placing the writ of summons or warrant for a short time in the cargo and on taking off the process by leaving a true copy upon it.

14. Service on cargo in custody of third party: - If the cargo is in the custody of a person who does not permit access to it, service of the writ or warrant may be made upon the custodian.

15. Marshal may apply for direction: - The Marshal may at any time make a report to Court and apply for directions with respect to property under arrest in a suit. The Court may direct notice of the application to be given to any person concerned with the property before passing orders on the report.

16. Application for sale of arrested property: - In a suit *in rem*, if the property proceeded against has been arrested, the plaintiff may, at any time after service of the writ of summons upon the defendant or after the defendant's appearance, whichever is earlier, apply to the Court by notice of Motion for an order that the arrested property be sold by the Marshal and the sale proceeds be paid into the Registry. The Court may make such order on the claim as it thinks fit.

17. Interveners: - (1) Where property against which a suit *in rem* is brought, is under arrest or money representing the proceeds of sale of that property is in Court, a person who has interest in that property or money but who is not a defendant to the suit may, with the leave of the Court, intervene in the suit.

(2) An application for the grant of leave under this rule may be considered *ex parte* provided it is duly supported by affidavit showing the interest of the applicant in the property against which the suit is brought or in the money in the Court.

(3) A person to whom leave is granted to intervene in a suit shall either appear in person or shall file a Vakalatnama therein within the period specified in the order granting leave. On filing such appearance or Vakalatnama, the intervener shall be treated as if he were a defendant in the suit.

(4) The Court may order that a person to whom it grants leave to intervene in a suit shall, within such period as may be specified in the order serve on every other party to the suit such pleading as may be specified.

18. Suits *in rem* by default: - After the expiration of 15 days from the date of warrant, if no appearance shall have been entered in the suit the Advocate for plaintiff may cause the suit to be set down for hearing.

19. If the Court finds plaintiff's claim is well founded: - If, when the suit comes before the Court, it is satisfied that the plaintiff's claim is well founded, it may pass a decree in favour of the plaintiff and may order the property proceeded against to be sold with or without previous notice and the sale proceeds paid into the Registry to the credit of the suit or make such other order in the premises as it may think just.

20. Order for sale of property and determination of priority of claims: - (1) Where in a suit *in rem*, the Court has ordered the property proceeded against to be sold, any party who has obtained or obtains a decree or order against the said property or the proceeds of sale thereof may apply to the Court by Notice of Motion for an order determining the order of priority of the claims against the proceeds of sale of the said property-

(a) in a case where the order for sale contains the further order referred to in sub-rule (2) after the expiration of the period specified in the order under sub-rule (2) (a); or

(b) in any other case, after obtaining judgment.

(2) Where in a suit *in rem*, the Court orders the property proceeded against to be sold, it may further order-

(a) that the order of priority of the claims against the proceeds of sale of the property shall not be determined until after the expiration of ninety days or of such other period as the Court may specify, beginning with the day on which the proceeds of sale are paid in Court;

(b) that any party to the suit or to any other suit in rem, against the property proceeded against or the sale proceeds thereof may apply to the Court to extend the period specified in the order;

(c) that within seven days after the date of payment into Court of the proceeds of sale, the Marshal shall send for publication in such newspapers as the Court may direct a notice complying with the provisions of Sub-rule (3).

(3) The notice referred to in sub-rule (2) shall state:

(a) that the property (particulars to be specified) has been sold by the order of the High Court in a suit *in rem* giving the number of the suit and the names of the parties to the suit ;

(b) that the gross proceeds of the sale specifying the amount thereof, have been paid into Court;

(c) that the order of priority of the claims against the, said proceeds will not be determined until after the expiration of the period (specifying it) specified in the order for sale ;

(d) that any person having a claim against the property or the proceeds of sale thereof, shall apply to the Court for leave to intervene and prove his claim before the Court and obtain a decree before the expiration of that period.

(4) The Marshal shall lodge in the Registry a copy of each newspaper in which the notice referred to in sub-rule (2) has appeared.

(5) The expenses incurred by the Marshal in complying with an order of the Court under this rule shall be included in his expenses relating to the sale of the property.

(6) An application to extend the period referred to in sub-rule (2) (a), shall be made by Notice of Motion which shall be served on the parties to the suit and all persons who have obtained leave, to intervene in the suit.

(7) Subject to the aforesaid provisions in this rule, every sale under the decree or order of the Court shall unless the Court shall otherwise order be made by the Marshal in like manner as a sale of movable property in execution of decree in an ordinary civil suit.

21. Procedure by Marshal on sale of property: - (1) The Marshal shall pay into the Court the gross proceeds of sale of any property sold by him and shall at the same time, bring into the Registry the account of sale, with voucher in support thereof, for the taxation of costs and expenses of sale.

(2) Any person interested in the proceeds may be heard before the Registrar on the taxation of the account of expenses and the Registrar's order thereon shall be final.

22. Payment of money: - All money paid into Court shall be paid to the Registrar.

23. Payment out of Court: - Money paid into Court shall not be paid out of Court except in pursuance of an order of the Court.

24. Security for latent demands: - Security for latent demands shall not, unless the Court shall otherwise order, be required on the payment of money out of Court.

25. Security: -(1) Where security is to be given in the Registry, it shall be given according to the rules and practice of the Court as to security in the case of, an attachment before judgment in an ordinary civil suit. If the claim in the suit is in foreign currency, the security shall be furnished in that currency subject to orders of the Court.

(2) Where security is tendered in cash, the Registry shall invest the same in an interest bearing account with the branch of a nationalized or scheduled bank within the jurisdiction of the Court on its Original Side subject to any other orders of the Court.

26. Motions and applications: - Motions and applications may be made into the Court to the Bench to which admiralty matters have been assigned under rule 48 and in its absence, to the Chief Justice.

27. Entry of appearance: - An Advocate desiring to enter an appearance in any suit shall file in the Registry a praecipe, a copy of which shall have been previously served on the Advocate for the adverse party.

28. Contents of the praecipe:- The praecipe referred to in sub-rule 27 shall contain the name of the Advocate and an address in Cuttack at which it shall be sufficient to leave all instruments and documents in the suit.

29. Release: - Property arrested by warrant shall only be released under the authority of an instrument issued by the Registrar to be called a "Release".

30. Caveat against arrest of property: - (1) Any person desiring to prevent the arrest of any property shall file in the Registry a praecipe, signed by himself or his Advocate, who may be acting for him requesting that a caveat be entered against the arrest of the said property and undertaking to enter an appearance in person or by a Vakalatnama in any suit that may be instituted against the said property and to give security in such suit in a sum not exceeding the amount to be stated in the praecipe or to pay such sum into the Registry. The caveat shall contain the name, address and e-mail address of the caveator and/or his advocate, as the case may be. A caveat against the issue of a warrant for the arrest of the said property shall thereupon be entered in a book to be kept in the Registry, called the "Caveat Warrant Book". The Caveat Warrant Book shall state the amount of security that the caveator has undertaken to provide as per praecipe.

(2) Copy of plaint in suit against property to be served before filing plaint on the caveator-Any person instituting a suit against any property in respect of which a caveat has been entered in the "Caveat Warrant Book" shall, before filing the plaint, serve a copy thereof upon the party on whose behalf the caveat has been entered or upon his Advocate and annex to the plaint a statement of such service.

(3) Caveator to give security on filing of plaint-Within three days from the filing of the plaint, the party on whose behalf the caveat has been entered shall, if the sum in which the suit has been instituted does not exceed the amount for which he has given the undertaking, give security in such sum or pay the same into the Registry, or if exceeds that amount, give security to the sum in which the suit has been instituted or pay the same into the Registry.

(4) On default, the suit may proceed *ex parte*-After the expiration of three days from the filing of the plaint, if the party on whose behalf "a caveat has been entered shall not have given security in such sum or paid the same into the Registry, the plaintiff may apply to the Registrar to set down the suit forthwith for hearing as an undefended, suit;

Provided that the Court may on good cause shown and on such terms as to payment of costs as it may impose, extend the time for giving security or paying the money into the Registry.

(5) Judgment on the claim and enforcement of Judgment on the claim payment- When the suit comes before the Court, if the Court is satisfied that the claim is well founded it may pronounce Judgment for the amount which appears to be due, and may enforce the payment thereof by order of attachment against the party on whose behalf the caveat has been entered, and by the arrest of the property if it then be or thereafter comes within the jurisdiction of the Court.

(6) Registrar to search for caveat before issue of warrant-Before issuing a warrant for the arrest of property, the Registrar shall ascertain, whether or not any caveat has been entered against the issue of warrant of arrest thereof.

31. Caveat against release of arrested property: - Any person desiring to prevent the release of any property under arrest shall file, in the Registry a praecipe, signed by himself or his Advocate, who may be acting for him requesting that a caveat be entered against the release of the said property which shall thereupon be entered in a book to be kept in the Registry called the "Caveat Release Book". The caveat shall contain the name, address and e-mail address of the caveator and/or his advocate, as the case may be, and the nature and amount of the claim of the caveator. Such detail shall be entered in "Caveat Release Book".

32. Property not to be released unless notice is given to caveator: - No property arrested under a warrant shall be ordered to be released, unless notice is given to the person who has filed caveat against release thereof and whose caveat is outstanding on the "Caveat Release Book".

33. Penalty for delaying release: - A party delaying the release of any property by the entry of caveat shall be liable to be condemned in costs and damages, unless

he shall show to the satisfaction of the Court, good and sufficient reason for having entered the caveat.

34. Caveat against payment out of sale proceeds of property: - Any person desiring to prevent the payment out of Court of any money in Court representing the proceeds of sale of any property shall file in the Registry a praecipe, signed by himself or his Advocate who may be acting for him, requesting that a caveat be entered against payment out of Court of the said proceeds of sale. A caveat against the payment out of Court of such sale proceeds shall thereupon be entered in a book to be kept in the Registry called the "Caveat Payment Book." The caveat shall contain the amount, nature and details of the claim of the caveator and details of any suit or proceedings in respect thereof. Such details shall be entered in "Caveat Payment Book".

35. Duration of caveat: - A caveat, whether against the issue of a warrant, the release of property, or the payment of money, out of the Registry shall be valid for six months from the date of its filing.

The period of validity of a caveat shall not be extended, but this provision shall not be taken as preventing the entry of successive caveats.

36. Withdrawal of caveat: - A caveat may be withdrawn by the party on whose behalf it has been entered or by his Advocate; but the praecipe to lead withdrawal thereof shall, save by permission of the Registrar, be signed, by the person who signed the praecipe to lead the entry of the caveat.

37. Application to overrule a caveat: - A caveat may be overruled on an application made to the Court duly supported by an affidavit.

38. Release of property arrested: - Subject to the provisions of rules 32 and 42 property arrested under a warrant may be ordered to be released-

- (1) at the request of the plaintiff by a praecipe, before an appearance in person or by Vakalatnama is filed by the defendant; or
- (2) on the defendant paying into Court the amount claimed in the suit; or

- (3) on the defendant giving such security for the amount claimed in the suit as the Court may direct; or
- (4) on any other ground that the Court may deem just.

39. Release by Marshal on lodging praecipes with release: - The release when obtained shall be lodged with praecipe in the office of the Marshal by the party obtaining the same who shall also at the same time pay all the costs, charges and expenses attending the care and custody of the property while under arrest. The Marshal shall thereupon release the property.

40. Property may be arrested notwithstanding caveat:- The fact that there is a caveat against arrest in force shall not prevent a party from setting a warrant of arrest issued and the property, to which the caveat relates arrested.

41. Remedy where property protected by caveat is arrested without good and sufficient cause: - Where property with respect to which a caveat against arrest is in force is arrested in pursuance of a warrant of arrest the party at whose instance the caveat was entered may apply to the Court by Notice of Motion for an order for release of the property. The Court, unless it is satisfied that the party procuring the arrest of the property had good and sufficient reason for doing so, may order the release of the property and may also order the last mentioned party to pay to the applicant damages in respect of the loss suffered by the applicant as a result of the arrest.

42. Value of property under arrest in salvage suit to be determined before release: - In a suit of salvage, the value of the property under arrest shall be agreed to or proved by affidavit to the satisfaction of the Court before the property is released.

43. Rules as to Collision claims: -

- (1) In an action to enforce a claim for damage, loss of life or personal injury arising out of a collision between vessels, the following Rules shall apply unless the Court otherwise orders.
- (2) If in a collision claim *in rem*, a cross claim *in rem* arising out of the same collision or occurrence is made and the party bringing the original claim has caused the arrest of a ship or has obtained security

in order to prevent such arrest; and the party bringing the cross claim is unable to arrest a ship or otherwise obtain security, the party bringing the cross claim may apply to the Court to stay the original claim until sufficient security is given to satisfy any judgment that may be given in favor of that party.

- (3) The plaintiff must within two months after service of the writ or any defendant, and the defendant must within two months after entering an appearance, file in the Registry a statement of the following;
 - (a) the names of the ships which came into collision, their national character and their ports of registry; the length, breadth, gross tonnage, horsepower and draught at the material time of the ship and the nature and tonnage of any cargo carried by the ship;
 - (b) the date and time (including the time zone) of the collision;
 - (c) the place of the collision;
 - (d) the direction and force of the wind;
 - (e) the state of the weather;
 - (f) the state, direction and force of the tidal or other current;
 - (g) the position, the course steered and speed through the water of the ship when the other ship was first seen or immediately before any measures were taken with reference to her presence, whichever was the earlier;
 - (h) the lights or shapes (if any) carried by the ship;
 - (i)
 - (i) the distance and bearing of the other ship if and when her echo was first observed by the radar;
 - (ii) the distance, bearing and approximate heading of the other ship when first seen;
 - (j) What light or shape or combination of lights or shapes (if any) of the other ship was first seen;
 - (k) What other lights or shapes or combinations of lights or shapes (if any) of the other ship were subsequently seen before the collision, and when;
 - (l) What alteration (if any) were made to the course and speed of the ship after the earlier of the two times referred to in subparagraph (g) up to the time of the collision, and when, and

what measures (if any) other than alterations of course or speed, were taken to avoid the collision, and when;

- (m) The heading of the ship, the parts of each ship which first came into contact and the approximate angle between the two ships at the moment of contact;
- (n) What sound signals (if any) were given, and when; and
- (o) What sound signals (if any) were heard from the other ship, and when;
- (p) Disclose any electronic track data which is or has been in its control and, where every party has electronic track data in its control, each must provide copies, or permit inspection, of that electronic track data within 7 days of a request by another party to do so.

(4) Nothing contained in this rule shall apply to suits *in personam*.

44. Praecipes, writs of summons, warrants, etc. - Forms of praecipes required to be filed in the Registry or Marshal's Office and forms of writs of summons and warrants may be obtained on applications in the Registry. They shall as nearly as may be in the forms set forth in the Appendix to these Rules and may be varied or altered by a Court in its discretion.

45. Signature to Praecepse: - Every praecipe shall be signed either by the party or by his Advocate.

46. Improperly filled up praecipe: - If the praecipe is not properly filled up, the Registrar or the Marshal, as the case may be, may refuse to receive the same or to act thereon.

47. Practice and Procedure: The ordinary rules and practice with regard to any suit/proceeding before the Court shall apply so far as may be necessary, if not inconsistent or repugnant with this Rule. Notwithstanding anything contained in this special rule, the Bench hearing the case, may, if it thinks fit, make such order, as it may make under the ordinary rules and practice except in case of special summary procedure cases .

48. Admiralty Bench: Admiralty jurisdiction of the Court may be exercised by a Single Judge Bench, as the Chief Justice may appoint, designated as Admiralty

Bench who shall hear and dispose of the same and shall also deal with all interlocutory applications and motions in connection therewith.

Notwithstanding anything contained in any other law for the time being in force, an appeal shall lie from any judgment, decree or final order or interim order of such Single Judge Bench to a Division Bench of the Court, as the Chief Justice may appoint, other than the Judge from whose judgment, decree or final order or interim order, the appeal is preferred. If there arise any difference of opinion between the Judges of the Division Bench, then the same shall be subject to Rule 5 of Chapter III of the Rules of the High Court of Orissa, 1948.

49. Fees: - The fees of the Courts in respect of claims under the Act shall be those as set out in Section 7 read with Schedule-I of the Court-fees Act, 1870, as amended from time to time and the fees of Advocates shall be at the rates obtained under the original jurisdiction of the Court relating to writ application. The fees to be taken by the Marshal shall be those set forth in the Schedule hereto.

Assessor in suits of Salvage, Towage or Collision

50. List of Assessors: The Court may, if think fit, and shall upon request of either party to the suit, summon for its assistance, in such manner as it may direct, one or more competent assessors from the list of assessors who shall attend and assist the Court in hearing any suit or cause relating to salvage, towage, or collision.

51. Appointment of Assessors: The appointment of the assessors shall be made by the Court having regard to the nature of the suit and the qualification and experience of the person so appointed. The appointment of assessor(s) shall not preclude any party/parties to examine any expert witness in any admiralty proceeding. However, the Court shall exercise its discretion in such matter having regards to the nature of dispute and necessity of examination of such expert witness.

52. Assessor's Fees: Every person who shall so act as an assessor shall be entitled to a fee as determined by the Court for each day's attendance or a wholesome amount for the entire assistance in such case.

53. Application to summon assessors: - Either party in any such suit as aforesaid may apply that it may be heard with the assistance of the assessors. Unless otherwise ordered, the application shall be made by summons. Where the

suit is pending before the Court, to the Bench before whom it is appointed that the suit shall be heard.

54. Letter in the nature of summons to be served as process: - Where assessors are to be summoned, this shall be done by a letter, under the signature of the Registrar which may be served in like manner as process of the Court in its writ jurisdiction.

55. Assessor's fees by whom to be deposited: - Assessor's fee shall, before each day's hearing, be deposited with the Registrar by the party at whose instance they were summoned, or in default thereof by the other party.

56. How to be disposed of: - The Registrar shall pay the fees so deposited with him to 'assessors' or, in any case where their attendance is not required, shall; unless otherwise ordered, refund the same so the party by whom the same was deposited.

57. To be deemed costs in the cause: - Unless otherwise ordered, all fees paid to assessors under these rules shall be deemed to be costs in the suit.

Special Summary Procedure

58. Summary Procedure by consent: - The parties to any suit may have the same dealt with, heard and determined in accordance with the following special rules upon filing in the Registry, a consent signed by the parties or their Advocates in the form given in the Appendix to these Rules.

59. Application to fix hearing and give directions:- After such consent has been filed, application may be made to the Court by any party to appoint a day for hearing and to give directions.

60. No pleadings: - There shall be no pleadings beyond a statement of claim verified by affidavit, but if there be a counter-claim, notice thereof shall be given in writing before such consent as aforesaid is signed.

61. List of documents: - inspection-List of documents shall be exchanged and mutual inspection of documents given at or before a time appointed by the Court on the hearing of the application aforesaid.

62. Hearing of application: - At the hearing of the application aforesaid unless it shall sufficiently appear from the statement of claim or otherwise in writing, the plaintiff shall specify the cause or causes of action in respect of which the suit is brought and if practicable, the amount actually claimed, and the defendant shall specify the grounds of defence on which he relied and in salvage claims, the plaintiff and the defendant respectively shall, at the time or within such time as the Court shall direct, state the values of their property and, if required, by affidavit. In the case of a counter-claim, the cause or causes of action and the claim therein and grounds of defence thereto shall be similarly stated.

63. Evidence: - The Court shall be at liberty to receive, call for, and act upon, such evidence, documentary or otherwise, whether legally admissible or not, as it may think fit.

64. Costs: - If in any suit, the sum awarded, or for which judgment is given, exceeds the sum, if any, tendered, the Court hearing the case may never the less exercise his discretion as to how and by whom the costs shall be borne.

65. In other respects ordinary rules shall apply: - In other respects, the ordinary rules and practice shall apply so far as may be necessary. Notwithstanding anything contained in this special rule, the Bench hearing the case may if it thinks fit, make such order as it may make under the ordinary rules and practice.

66. Summary Procedure:

- (1) If in an action *in rem*, summons has been served on a defendant and the defendant has given notice of intention to defend the action, the plaintiff may apply before the Court for judgment against the defendant on the ground that the defendant has no defence,-
 - (a) to the claim included in the plaint, or
 - (b) to a part of such claims; or
 - (c) except as to the amount of any damage as claimed.
- (2) An application under sub rule (1) must be made by notice of motion or summons supported by an affidavit verifying the facts on which the claim or part of the claim to which the application relates is based and stating that in the deponent's belief there is no defence to that claim or part, as

the case may be or no defence except to the amount of any damage as claimed.

- (3) Unless the Court otherwise directs, an affidavit for the purpose of this rule may contain statement of information or belief and the sources and grounds thereof.
- (4) The notice of motion, a copy of the affidavit in support thereof and of any exhibit referred therein must be served on the defendant not less than 10 clear days before the return date.
- (5) Unless on the hearing of an application under sub rule (1) either the Court dismisses application or the defendant satisfies the Court with respect to the claim or part of a claim to which the application relates that there is an issue or question in dispute which ought to be tried or that there ought to be some reason to be a trial of that claim or part, the Court may give such judgment for the plaintiff against the defendant on that claim or part as may be just in regard to the nature or remedy to be claimed.
- (6) The Court may by order and subject to such conditions, if any, as may be just stay execution of any judgment given against the defendant under this rule until after the trial of a counter-claim made or raised by the defendant in the action.
- (7) Defendant may show cause against an application under sub rule (1) by affidavit or otherwise to the satisfaction of the Court.
- (8) The Court may give leave to defendant against whom such an application has been made leave to defend the action with respect to the claim or the part of a claim to which the application relates either unconditionally or on such terms as to give security or time or may on trial or otherwise as it thinks fit.
- (9) On the hearing of such application, the Court may order a defendant showing cause or where the defendant is a vessel, the master or first officer, owner or charterer or manager of the vessel and in the case of any other property, the owner or person having custody thereof.
- (10) To produce any document if it appears to the Court that there are special circumstances which make it desirable that he should do so to attend and be examined on oath.
- (11) Where a defendant to an action *in rem*, has served a counter-claim on the plaintiff then the defendant may contend on the ground that the plaintiff

has no ground to defend the defence to the claim made in the counter-claim or to a particular part of such counter-claim and may apply to the Court for judgment against the plaintiff on that claim or part thereof.

- (12) The above rules with regard to the application filed by the plaintiff shall apply *mutatis mutandis* to the application filed by a defendant in support of its counter-claim.
- (13) The above rules would only apply to actions *in rem* and by or against a defendant sued *in rem*.

Supersession of Rules

67. These rules to supersede previous rules: - This Rule shall apply to the suits, actions, claims or appeals brought in the Court in the exercise of its admiralty jurisdiction in supersession of all former rules which may have been in force or deemed to have been in force including 'The Admiralty Rules of the Orissa High Court, 1981', which is/are hereby repealed. The existing Rule made by the Court referred to as Admiralty Rules of the Orissa High Court, 1981 is hereby repealed.

SCHEDULE OF FEES AND CHARGES

SI. NO.	Fees for or on	Rs.
1	Fees for serving each summons or notice to a defendant or a witness.	Rs. 500.00
2	Fees for executing a warrant of arrest or order of arrest	Rs. 500.00
3	Fees for serving any injunction, order or process not otherwise provided for	Rs.500.00
4	Any other fees not provided specifically in the schedule	Rs. 200.00

By Order of the High Court of Orissa

Sd/-

L.K. DASH

REGISTRAR (JUDICIAL)

Form No. I**[Rule 58]****Form of consent to the application of summary procedure****In the High Court of Orissa, Cuttack****(Admiralty Jurisdiction)**

Between :

... Plaintiff

and

... Defendant

We the undersigned respectively hereby agree that this cause shall be dealt with, heard and determined according to the Summary Procedure.

Dated this..... day of.....20.....

Plaintiff's Advocate

Defendant's Advocate

Note - As the above mentioned Rules depart from the ordinary rules and practice, it will be necessary for Advocates signing this consent to obtain their clients' authority to do so.

Form No. 2**[Rules 9 and 47]****Writ of summons in Admiralty Suits *in rem***

Suit No..... of 20.....

In the High Court of Orissa, Cuttack

(Admiralty Jurisdictions)

Between :

... Plaintiff

and

... Defendant

To

The owners and parties interested in the Ship or Vessel of the port of (or cargo and freight, etc., as the case may be).

Greeting : *Where (enter the name, description and address of the plaintiff) has instituted a suit in his Court against you (set out concise statement as appearing in the plaint or attach plaint); You are hereby required to cause an appearance to be entered for you in the*

Registry (*i.e.*, the office of the Registrar of this Court) withindays from the service upon you of this summons, exclusive of the day of such service; and are summoned to appear before this Court in person or by an Advocate duly instructed to answer the plaintiff's claim on the day the case is set down for hearing, upon which date you must be prepared to produce all your witnesses and all documents in your possession or power upon which you intend to rely in support of your case and you are hereby required to take notice that in default of your causing an appearance to be so entered the suit will be liable to be heard and determined in your absence; and if the property described In this writ is then under the arrest of the Court, it may be sold by the order of the Court.

Witness.....Chief Justice of the High Court of Orissa at Cuttack the.....

day at.....in the year of one thousand nine hundred and...

Advocate..... Registrar.....

Note 1- An appearance in person or through Advocate is to be entered in the Registry, within the time limited in default thereof, the suit will be liable to be heard *ex parte*.

Note 2-The written statement called for must be filed along with your appearance or within such time as permitted by the Court. In default, the suit shall be liable to be heard *ex parte*.

Note 3-This writ must be returned to the High Court immediately after the service thereof, or, if not served and the time for the return thereof shall not have been extended to a next date.

Note 4- Should you apprehend your witnesses will not attend of their own accord you can have subpoenas from this Court to compel the attendance of any witness and the production of any document that you to have a right to call upon the witness to produce, on applying to the Court at any time before the trial, and on payment to them of the fees and expenses prescribed by the Rules of this Court.

Note 5- If you admit the demand, you should pay the money into Court with the costs of the suit to avoid sale of any property in respect of which the suit is brought or execution of the decree which may be against your person or property, or both.

Form No. 3**[Rule 5]****Praecipe for warrant**

Suit No.....of 20.....

In the High Court of Orissa Cuttack
(Admiralty Jurisdiction)

Between :

... Plaintiff

and

... Defendant

I, Advocate, for the (*state whether plaintiff or defendant*), pray a warrant to arrest (*state name and nature of property*).

Dated the.....day of.....20.....

Advocate

*(To be signed by the Advocate)***Form No. 4****[Rule 5]****Warrant of Arrest in Admiralty**Suit *in rem*

Suit No.....of.....20.....

In the High Court of Orissa Cuttack
(Admiralty Jurisdiction)

Between :

... Plaintiff

and

... Defendant

To the Marshal,

We hereby command you to arrest the ship or vessel of the port of.....(and the cargo and freight, etc., as the case may be) and to keep the same under safe arrest, until you shall receive further orders from us.

Witness.....Chief Justice of the High Court of Orissa at Cuttackthe day.....of.....in the year of one thousand nine hundred and.....

Registrar

Form No. 5

[Rule 10]

Writ of Summons in Admiralty action *in personam*

In the High Court of Orissa, Cuttack

(Admiralty Jurisdiction)

Between :

... Plaintiff

and

... Defendant

To

(Address)

Greeting : Whereas (*enter the name and description and address of the plaintiff*) has instituted a suit in this Court against you (*as per the plaint or concise statement attached*), you are hereby required to cause an appearance to be entered for you in the Registry (*i.e.*, in the office of the Registrar of this Court) withindays from the service upon you of the summons, exclusive of day of such service, and are summoned to appeal before this Court in person or by an Advocate duly instructed to answer the plaintiff's claim on the day the case is set down for hearing, upon which day you must be prepared to produce all your witnesses and all documents in your possession or power upon which you intend to rely in support of your case, and you are hereby required to take notice that in default of your causing appearance to be so entered, the suit will be liable to be heard and determined in your absence.

Witness.....Chief Justice of the High Court of Orissa at Cuttack the day of.....in the year one thousand nine hundred and.....

Registrar

Advocate

Note 1- An appearance in person or through Advocate is to be entered in the Registry, within the time limited. In default thereof, the suit will be liable to be heard *ex parte*.

Note 2-The written statement called for must be filed within the time limited, the defendant having first entered an appearance. In default thereof the suit will be liable to be heard *ex parte*.

Note 3-This writ must be returned to the High Court immediately after the service thereof, or, if not served and the time for the return thereof shall not have been extended on the day of next.

Note 4-Should you apprehend your witnesses will not attend of their own accord you can have subpoenas from this Court to compel the attendance of any witness and the production of any document that you have a right to call upon the witness to produce, on applying to the Court at any time before the trial and on payment to them of the fees and expenses prescribed by the Rules of this Court.

Note 5- If you admit the demand you should pay the money into Court with the costs of the suit to avoid sale of any property in respect of which the suit is brought or execution of the decree which may be against your person or property, or both.

Form No. 6

[Rule 4 & 10]

Writ of summons in Admiralty action *in rem* and *in personam*

In the High Court of Orissa, Cuttack

(Admiralty Jurisdiction)

Admiralty action *in rem* against
and *in personam* against
Between

... Plaintiff

and

... Defendant

To the owners of and other persons interested in.....

(i.e., the Ship of the Port of)

and to..... (Address)

Greeting : Whereas (*enter the name and description and address of the plaintiff*) has instituted a suit in this Court against you (*as per the plaint or concise statement attached*) you are hereby required to cause an appearance to be entered for you in the Registry (*i.e., in the office of the Registrar of this Court*) within.....days from the service upon you of the summons exclusive of the day of such service, and are summoned to appear before this Court in person or by an Advocate duly instructed to answer the plaintiff's claim on the day the case is set down for hearing, upon which day you must be prepared to produce all your witnesses and all documents in your possession or power upon which you intend to rely in support of your case, and you are hereby required to take notice that in default of your causing appearance, the suit will be liable to be heard and determined in your absence, and, if the property described in this writ is then under the arrest of the Court, it may be sold by order of the Court.

Witness.....Chief Justice of the High Court of Orissa, Cuttack the.....day
of.....in the year one thousand nine hundred and.....

Registrar

Advocate

Note 1-An appearance in person or through Advocate is to be entered in the Registry, within the time limited. In default thereof, the suit will be liable to be heard *ex parte*.

Note 2-The written statement called for must be filed within the time limited, the defendant having first entered in appearance. In default thereof the suit will be liable to be heard *ex parte*.

Note 3-The writ must be returned to the High Court immediately after the service thereof, or, if not served and the time for the return thereof shall not have been extended on the.....day of.....next.

Note 4-Should you apprehend your witnesses will not attend of their own accord you can have subpoenas from this Court to compel the attendance of any witness and the production of any document that you have a right to call upon the witness to produce, on applying to the, Court at any time before the trial, and on payment to them of the fees and expenses prescribed by the rules of this Court.

Note 5 - If you admit the demand you should pay the money into the Court with the costs of the suit to avoid sale of any property in respect of which the suit is brought or execution of the decree which may be against your person or property, or both.

Form No. 7

[Rule 11]

Praecipes for service by the Marshal of any Instrument *in rem* other than a warrant

Suit No.....of.....20.....

In the High Court of Orissa, Cuttack
(Admiralty Jurisdiction)

Between

... Plaintiff

and

... Defendant

I..... Advocate for the (state whether plaintiff or defendant) pray that the
(state nature of the instrument) left herewith be duly executed.

Dated the.....day of 20.....

Advocate

To be signed by the Advocate

Form No. 8**[Rule 27]****Praecipe for appearance**

Suit No.....of.....20.....

In the High Court of Orissa, Cuttack

(Admiralty Jurisdiction)

Between

...Plaintiff

Versus

... Defendant

Enter an appearance for.....in this suit.

Dated the.....day of 20.....

(Signed)

Advocate for the Defendant

Address for service on.....

Advocate for the sole defendant

Form No. 9**[Rules 38(1) and 39]****Praecipe for release**

Suit No.....of 20.....

In the High Court of Orissa, Cuttack

(Admiralty Jurisdiction)

Between

... Plaintiff

Versus

... Defendant

I.....Advocate for the (state whether plaintiff or defendant) in a suit (state nature of suit), against the (state name and nature of property) now under arrest by virtue of a warrant issued from the (bail having been given, or the suit having been withdrawn by me before an appearance was entered therein, etc., as the case may be), and there being no caveat against the release thereof outstanding.

Dated the day of.....20.....

Advocate

To be signed by the Advocate

Form No. 10**[Rule 29]****Release**

Suit No.....of 20.....

In the High Court of Orissa, Cuttack
(Admiralty Jurisdiction)

To

The Marshal,

Greeting : Whereas in the above suit commenced in our High Court on behalf of.....against..... we did command you to arrest the said.....and to keep the same under safe arrest until you should receive further orders from us. Now we do hereby command you to release the saidfrom the arrest effected by virtue of our warrant in the said suit, upon payment being made to you of all costs, charges and expenses attending the care and custody of the property whilst under arrest in that suit.

Witness Chief Justice of the High Court of Orissa at Cuttack the day of.....in the year of Two thousand and.....

Release Registrar

Taken out by.....on the day of 20.....the.....or vessel.....(or cargo and freight, etc., as the case may be) released from arrest pursuant to this instrument of release.

Registrar

Form No. 11**[Rule 31]****Praecipe for Caveat release**In the High Court of Orissa, Cuttack
(Admiralty Jurisdiction)

Between

... Plaintiff

Versus

... Defendant

I,..... Advocate for the Plaintiff in this action pray a caveat against the release of the (state name and nature of the property)

Dated the.....day of 20.....

Advocate

To be signed by the Advocate

Form No. 12**[Rule 30]****Praecipe for Caveat Warrant**

Suit No.....of 20.....

In the High Court of Orissa, Cuttack

(Admiralty Jurisdiction)

Between

... Plaintiff

Versus

... Defendant

I,(state name, address and description) hereby undertake to enter an appearance in any suit that may be commenced in this Hon'ble Court against (state name and nature of the property) and within three days after I shall have been served with a copy of the plaint in such suit to give bail therein in a sum not exceeding (state amount for which the undertaking is given) Rupees or to pay such sum into the Registry. And I consent that all instruments and other documents in such suit may be left for me at.....

Dated the.....day of.....20.....

Advocate

*To be signed by the Advocate***Form No. 13****[Rule 30]****Praecipe for caveat warrant by plaintiff**

Suit No.....of 20.....

In the High Court of Orissa, Cuttack

(Admiralty Jurisdiction)

Between

... Plaintiff

Versus

... Defendant

I,(state name, address and description) hereby undertake within three days after I shall have been served with a notice of any counterclaim herein in respect of which the defendant is entitled to. Arrest (state name and nature of property) to give bail to answer such counter-claim in a sum not exceeding (state amount for which the undertaking is given) Rupeesor to pay such sum into the Registry.

Dated the.....day of.....20..

Advocate

To be signed by the Advocate

Form No. 14**[Rule 36]****Praeclipe to withdraw Caveat**

Suit No.....of 20.....

In the High Court of Orissa, Cuttack
(Admiralty Jurisdiction)

Between

... Plaintiff

Versus

... Defendant

I,.....Advocate for the (*state whether plaintiff or defendant*) pray that the caveat against (*state tenor of caveat*), entered by me on the day of.....20.....on behalf of (*state name*) may be withdrawn.

Dated the.....day of.....20.....

(Signed)

(To be signed by the person by whom the praecipe for the, entry of the caveat was signed)