

The Rajasthan Subordinate Courts Case Flow Management Rules, 2006

RAJASTHAN

India

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Rule

THE-RAJASTHAN-SUBORDINATE-COURTS-CASE-FLOW-MANAGEMENT of 2006

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1. Short Title, Extent and Commencement.

- (i) These Rules shall be called "Rajasthan Subordinate Courts Case Flow Management Rules, 2006." (ii) These rules are divided in three parts: -Part-A : Case flow Management Rules for Trial Court and first appellate subordinate courts. Part-B : In the matter of first appeal to subordinate courts. Part-C : Criminal trials and criminal appeals to subordinate courts. (iii) These Rules shall come into force from the the date of publication in the Official Gazette. Rules Relating to Part-A

1A.

Having conceptual appraisal of case management in view and to ensure quicker disposal of cases in subordinate courts, following Tracks are devised for conducting the proceeding of suits: Track 1. - In this category, will fall the suits for maintenance, divorce and child custody and visitation rights, grant of letters of administration and succession certificate. Track 2. - In this category, will fall money suits and suits based solely on negotiable instruments. Track 3. - In this category, will fall suits for rent or for eviction (upon notice under Section 106 of Transfer of Property Act), suits concerning partition and like property disputes, recovery of possession, suits relating to mortgage arising out of the Transfer of Property Act for declaration and injunction under Specific Relief Act

and other such suits. Track 4. - In this category, will include the suits relating to the disputes of trademarks, copyrights, intellectual property matters and cyber laws. All efforts will be taken to complete the suits in track 1 within a period of 6 months, track 2 within 12 months and suits in track 3 and 4 within 24 months.

2A.

The Presiding Officer of the court concerned will be competent to make an appropriate assessment as to which track any case can be assigned. The Presiding Officer may shift a case from one track to another, depending upon the complexity and other circumstances of the case.

3A.

The Administrative Staff/Reader of the court will prepare a report as to the stage and progress of the case which are proposed to be listed in the next month and place the report before the court. When the matters are listed on each day, the judge concerned may take such decision as he may deem fit in the presence of council/parties in regard to each case for removing any obstacles in service of summons, completion of pleadings etc. with a view to make the case ready for disposal. These proceedings shall be conducted after completion of the judicial work.

4A.

Where computerization is available, the monthly data will be fed into the computer in such a manner that the judge referred to in clause (2) above will be able to ascertain the position and ascertain the stage of every case in every track from the computer screen. Where computerization is not available, the monitoring must be done manually.

5A.

The Presiding Officer will monitor and control the flow or progress of every case, either from the computer or from the register or date placed before him in the above manner or in some other manner he may innovate.

6A.

Observance of time limits and monitoring of proceedings relating to service of notice/summons in original civil suit : In every Original Civil Suit -(a) Wherever notice is issued in a suit, the notice would indicate that the code prescribes a maximum of 30 days for filing written statement (which for special reasons may be extended upto 90 days) and, thereafter, the defendants may prepare the written statement expeditiously and the matter will be listed for that purpose on the expiry of eight weeks from the date of issue of notice (so that it can be a definite date). After the written statement is filed, the replication (if any, proposed and permitted), would be filed within six weeks of receipt of the written statement. If there are more than one defendant, each one of the defendant would

comply with this requirement within the time limit.(b)The notice referred to in clause (a) will be accompanied by a complete copy of the plaint and all its annexure/enclosures and copies of the interlocutory applications, if any.(c)In every summon/notice to be issued by the Court, it would be indicated specifically that the summon/notice concerned is for settlement of issues only or for the final disposal of the suit. Prior to issuance of summons, the Presiding Officer shall examine the suit in view of the provisions contained in Order 5 Rule 5 of CPC. The Presiding Officer shall ordinarily take recourse to all the provisions of Rule 9 Order 5 of the CPC so that the service of the notice/summon is complete as expeditiously as possible.(d)If interlocutory applications are filed alongwith the plaint, and if an ex-parte interim order is not passed and the Court is desirous of hearing the respondent, it may, while sending the notice alongwith the plaint, fix an earlier date for the hearing of the application (than the date for filing written statement) depending upon the urgency for interim relief.

7A.

In the context of written statement to be filed under Order 8 CPC, following guidelines shall be adopted by the Civil Court after institution of the suit: -(i)The date of service of summons on the defendant shall be noted in red ink on the file.(ii)The case shall not be adjourned beyond thirty days from the date of service of the summons on the defendant.(iii)Endeavour shall be made to receive the written statement within the stipulated time of thirty days.(iv)A prayer for extension of time in view of the proviso appended to Order 8 Rule 1 may be allowed by recording the reasons in writing.(v)Extension of further time under Order 8 Rule 9 read with Section 148 CPC may be allowed if it was needed to be given for the circumstances which are exceptional, occasioned by reasons beyond the control of the party and grave injustice would be occasioned if the time was not extended. Costs may be imposed and affidavit or documents in support of the grounds pleaded by the party for extension of time may be demanded depending on the facts and circumstances of the given case.(vi)A prayer for extension of time made by the defendant shall not be granted just as a matter of routine and merely for asking, more so, when the period of 90 days has expired.

8A.

(a)In the case of service of summons by the plaintiff or a courier where a return is filed that the defendant has refused notice, the return will be accompanied by an undertaking that the plaintiff or the courier, as the case may be, is aware that if the return is found to be false, he can be punished for perjury or summarily dealt with for contempt of Court for abuse of the provisions of the Order V Rule 9A Sub-Rule 4 of Code of Civil Procedure will be followed by reissue of summons through Court.(b)If it has not been possible to effect service of summons under Rule 9 of Order V, the provisions of Rule 17 of Order V will apply and the plaintiff will within 7 days from the date of its inability to service the summons, request the Court to permit substituted service. The dates for filing the written statement and replication, if any, will accordingly stand extended.

9A.

The Court concerned will give calling in all the cases listed on particular day in order to confirm whether counsel are ready, whether the parties are present or whether various steps in the suit or proceedings has been taken and give date in routine matters for compliance with the order of the court and will prepare a list of the cases which are found ready for disposal by the Court. A separate list of other cases where an order prescribing the consequences of default or where pre-empty order or an order as to caused is required to be passed on judicial side, may be placed before the Court, will be prepared and put up before the Presiding Officer. These proceedings shall be conducted after completion of the judicial work.

10A. In matters of interim orders.

(a) If an interim order is granted at the first hearing by the Court, the defendants would have the option of moving appropriate application for vacating the interim order even before the returnable date indicated in the notice and if an application is filed, it will be listed as soon as possible even before the returnable date. (b) If the Court passes an ad-interim ex-parte order in an interlocutory application, and the reply by the defendants is filed, and, if, thereafter the plaintiff fails to file the rejoinder (if any) without good reason for the delay, the Court has to consider whether the stay or interim order passed by the Court would be vacated and will list the case with that purpose. This is meant to prevent parties taking adjournment with a view to have undue benefit of the ad-interim orders. The plaintiff may, if he so chooses, also waive his right to file a rejoinder. A communication of option by the plaintiff not to file a rejoinder, made to the Court will be deemed to be the completion of pleadings in the interlocutory application. (c) In all matters of Interlocutory applications, no adjournment would be ordinarily granted and reasons are to be assigned for each adjournment. In all cases where an injunction has been granted without giving notice to the opposite party the provisions of Rule 3A Order 39 CPC providing for disposal of application for injunction within 30 days would be complied with.

11A.

After the completion of admission and denial thereof, of documents by the parties, the suit shall be listed before the Court for examination of parties under Order X of the Civil Procedure Code. A joint statement of admitted facts will be filed before the said date. The Court will thereafter, follow the procedure prescribed under the Alternative Dispute Resolution and Mediation Rules, 2002.

12A.

On the filing of report by the mediator under the Mediation Rules that efforts at mediation have failed, or a report by the Conciliator under the provisions of a Arbitration and Conciliation Act, 1996 or a report of no settlement in the Lok Adalat under the provisions of Legal Services Authority Act, 1987 the suit be listed before the court within a period of 14 days. At the said hearing before the Court, all the parties will submit the draft issues proposed by them. The suit will be listed before the

Court within 14 days thereafter for framing of issues.

13A.

At the first hearing when the matter comes back on failure of conciliation or mediation of Lok Adalat, the Judge may enquire whether it is still possible for the parties to resolve the dispute. If the parties are not keen about settlement, the Court will frame the issues and direct the plaintiff to start examining his witnesses. The procedure of each witness filing his examination-in-chief and being examined in cross or re-examination will continue, one after the other. After completion of evidence on the plaintiffs side, the defendant will lead evidence likewise, whether after witness, the chief examination of each witness being by affidavit and the witness being then cross-examined or reexamined. The parties will keep the affidavit in chief-examination ready whenever the witness's examination is taken up. As far as possible, evidence must be taken up day by day as stated in clause (a) of proviso to Rule 2 of Order XVII. The parties will also indicate the likely duration for the evidence to be completed, and for the arguments to be thereafter heard. The Judge will ascertain the availability of time of the Court and will list the matter for trial on a date when the trial can go on from day to day and conclude the evidence. However, the possibility of further negotiation and settlement will remain open and if such a settlement takes place, it will be open to the parties to move the registry/office for getting the matter listed at an earlier date for disposal.

14A. In the matter for recording of evidence.

(a) The High Court will conduct an examination on the subjects of Code of the Civil Procedure and Evidence Act. Only those advocates who have passed an examination conducted by the High Court on the subjects of Code of 'Civil Procedure' and Evidence Act, will be appointed as Commissioners for recording evidence. They will be ranked according to the marks secured by them. (b) It is not necessary that in every case the Court would appoint a Commissioner for recording evidence. Only if the recording of evidence is likely to take a long time, or there are any other special grounds, the Court would consider appointing a Commissioner for recording the evidence. The Court would direct that the matter be listed for arguments fifteen days after the Commissioner files his report with the evidence. The Court may initially fix a specific period for the completion of the recording of the evidence by the Commissioner and direct the matter to be listed on the date of expiry of the period, so that Court may know whether the parties are co-operating with the Commissioner and whether the recording of evidence is getting unnecessarily prolonged. (c) Commissioners would file an undertaking in Court upon their appointment that they will keep the records handed over to them and those that may be filed before them safe and will not allow any party to inspect them in the absence of the opposite party/counsel. If there is delay of more than one month in the dates fixed for recording evidence, it is advisable for them to return the file to the Court and take it back on the even of the adjourned date.

15A. Costs.

- Whenever it is found by the court that any of the party in the suit has unnecessarily raised one or more issues awarding of the costs at the time of Judgment will be generally mandatory. Special

reasons must be assigned, if costs are not being awarded. If any of the parties has unreasonably protracted the proceedings, the Court shall exercise discretion to impose exemplary costs after taking into account the expenses incurred for the purpose of attendance on the adjourned dates. Costs would be assessed according to rules in force.

16A. Proceedings for Perjury.

- If the Court, while delivering the Judgment, is of the view that any of the parties or witnesses have wilfully and deliberately uttered blatant falsehoods, it will consider (at least in some grave cases) whether it is a fit case where prosecution should be initiated for perjury and order persecution accordingly.

17A. Adjournments.

- When a suit is listed before a Court and any party seeks adjournment, the Court shall verify whether the party is seeking adjournment due to circumstances beyond the control of the party, as required by clause (b) of proviso to Rule 2 of Order XVII. The Court will impose costs as specified in Rule 2 of Order XVII.

18A. Miscellaneous Applications.

- The proceedings in a suit shall not be stayed merely because of the filing of Miscellaneous Application in the course of suit unless the Court in its discretion expressly thinks it necessary to stay the proceedings in the suit.

19A. Notice issued under Section 80 of Code of Civil Procedure.

- Every public authority will appoint an officer responsible to take appropriate action on a notice issued under Section 80 of the Code of Civil Procedure. Every such officer will take appropriate action on receipt of such notice. If the Court finds that the concerned officer, on receipt of the notice, failed to take necessary action or was negligent in taking the necessary steps, the Court will hold such officer responsible and recommend appropriate disciplinary action by the concerned authority.

Rules Relating to Part-B

1B. Service of Notice of Appeal.

- Whenever an appeal is filed, the appellate court will ensure that a copy of the memorandum of the appeal has been filed in the subordinate court and that simultaneously an advance notice has been given by the counsel for the party who is proposing to file the appeal to the counsel for the opposite party who appeared in the subordinate court so as to enable the respondents to appear if they so choose, even at the first hearing stage.

2B. Essential Documents to be filed with the Memorandum of Appeal.

- The appellant will, as far as possible, file, along with the appeal, copies of essential documents marked in the suit, for the purpose of enabling the appellate Court to understand the points raised or for purpose of passing interim orders.

3B. Fixation of time limits in interlocutory matters.

- Whenever notice is issued by the appellate Court in interlocutory matters, the notice would indicate the date by which the reply would be filed. The rejoinder, if any, would be filed within four weeks of receipt of the reply. If there are more parties than one who are Respondents, each one of the respondent would comply with the requirement within the time limit and the rejoinder may be filed within four weeks from the receipt of the last reply.

4B. Steps for completion of all formalities/(Call Work) (Hajri).

- In the first instance, the appeal will be listed for completion of all formalities necessary before the appeal is taken up for final hearing. The procedure indicated above of listing the case for giving dates in routine matters would be followed mutatis-mutandis.

5B. Procedure on grant of interim orders.

- If an interim order is granted at the first hearing by the Court, the respondents would have the option of moving appropriate applications for vacating the interim order even before the returnable date indicated in the notice and if such an application is filed, it will be listed as soon as possible even before the returnable date. If the Court passes an ad-interim ex-parte order, and if the reply is filed by the respondents and if, without good reasons, the appellant fails to file the rejoinder, Court will consider whether it is a fit case for the vacating the stay or interim order and list and case for that purpose. The appellant may waive his right to file his rejoinder and in that case such choice will be conveyed to the court on or before the date fixed for filing of rejoinder. On communication of such option by the appellant, the pleadings in the matter will be deemed to be complete.

6B. Filing of Written submissions.

- Both the appellants and the respondents will be required to submit their written submissions two weeks before the commencement of the arguments in the appeal. The cause list would indicate if written submissions have been filed or not. Wherever they have not been filed, the Court must insist on their being filed within a particular period to be fixed by the Court and each party must serve a copy thereof on the opposite side before the date of commencement of arguments. The parties in the matter will not be allowed to file any reply to each other's written submissions.

7B. Costs.

- In case, any adjournment is sought and the same is granted to any of the parties at any stage of the proceedings of the appellate court, costs would invariably follow the event and reasons must be assigned by the court, if no cost is awarded. If any of the parties is found to have unreasonably protracted the proceedings exemplary costs may also be imposed after taking into account the costs that may have been imposed at the time of adjournments.

8B. Application/Petition under Special Acts.

- The Rules contained in Part-A in regard to original suits will mutatis mutandis apply in respect of applications/petitions filed under Special Acts. Rules Relating to Part-C

1C.

Criminal trials are broadly classified as under: Track 1. - In this category, will fall the cases involving Capital punishment, rape, sexual offences, dowry deaths. Track 2. - In this category, will fall all cases where the accused is not granted bail and he is in Jail. Track 3. - In this category, will fall cases which affect large number of persons such as Mass cheating, economic offences, illicit liquor tragedy and food adulteration cases etc. Track 4. - In this category, will fall cases involving offences which are tried by special courts such as POTA, TADA, NDPS, Prevention of Corruption Act, etc. Track 5. - In this category, will fall cases involving all other offences. All efforts will be taken to complete the trial of Track 1 cases within a period of nine months. Track 2 and Track 3 cases within twelve months and Track 4 within fifteen months. Track 5 may be completed at the earliest depending upon the nature of the offence.

2C.

Wherever an appeal is filed by a person in jail, and also when appeals are filed by State, as far as possible, the memorandum of appeal may be accompanied by important documents, if any, having a bearing on the question of bail.

3C.

Whenever an appeal is filed, the appellate Court will ensure that simultaneously an advance notice has been given by the counsel for the party who is proposing to file the appeal to the counsel for the opposite party who appeared in the subordinate court, so as to enable the respondents to appear if they so choose, even at the first hearing stage. Note. - Whenever, there is any inconsistency between these rules and the provisions of either the Code of Civil Procedure, 1908 or the Code of Criminal Procedure, 1973 or the Rules of the High Court or any other Statutes, the provisions of such Codes and Rules will prevail.