

Indian Divorce (Punjab) Rules, 1956

PUNJAB

India

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Rule INDIAN-DIVORCE-PUNJAB-RULES-1956 of 1956

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Indian Divorce (Punjab) Rules, 1956 Rules framed by Punjab High Court Under the Indian Divorce Act, 1869 In exercise of the powers conferred by Section 62 of the Indian Divorce Act (IV of 1869), the Punjab High Court has made the following rules :-

1. Short title.

- These rules may be called the Indian Divorce (Punjab) Rules, 1956.

2. How proceedings to be originated.

- Proceedings under the Act shall be originated by filing a petition to which shall be attached a certified copy of the certificate of the marriage.

3. Title of petition.

(a) All such petitions shall be instituted as follows :- In the Punjab High Court at _____ / District Court at _____. Matrimonial Jurisdiction In re : the Indian Divorce Act. A. B. _____ Petitioner versus C. D. _____ Respondent E. F. _____ Co-respondent Petitions under Section(s) - of the Indian Divorce Act. (b) Content of petition. - In the body of the petition shall be stated:-(i) the place and date of the marriage and the name, status and domicile of the wife before the marriage; (ii) whether the petitioner or respondent professes the Christian religion at the time when the petition is presented; (iii) the domicile of the husband at the time when the petition is presented, and his occupation and the place or places of residence of the parties respectively at the time of the presentation of the petitions. (iv) the principal permanent addresses where the petitioner and respondent cohabited within the jurisdiction, and in particular the place where they last resided together; (v) whether there is living issue of the marriage and if so, the names, and dates of birth or ages, of such issue; (vi) whether there have been in any Court any, and if so, what previous proceedings with reference to the marriage by or on behalf of either of the parties to the marriage,

and the result of such proceedings;(vii)the matrimonial offences charged, set out in separate paragraphs including particulars of the times and places of their alleged commission.

4. Collusion or Connivance.

- In cases where the petitioner is seeking a decree of nullity of marriage or of dissolution of marriage or of judicial separation, the petition shall further state that no collusion or connivance exists between the petitioner and the other party to the marriage, or alleged marriage.

5. Prayer of petition.

- The petition shall conclude with a prayer setting out particulars of the relief claimed, including the amount of any claim for damages and any order for custody of children which is sought.

6. Signature of petitioner.

- Every petition shall be signed by the petitioner. In the case of a minor it shall be signed both by the minor and his or her next friend and shall be accompanied by the undertaking mentioned in Section 49 of the Act and by a petition for approval of the next friend by the Court. In the case of a petition brought under Section 48 of the Act it shall be signed by the person bringing the suit.

7. Verification of petition.

- Pursuant to Section 47 of the Act every petition shall be verified in manner provided by Order VI, Rule 15, Civil Procedure Code.

8. Alleged adulterers to be co-respondents.

- In every husband's petition for dissolution of marriage on the ground of adultery the alleged adulterers shall be made co-respondents in the suit unless the Judge shall otherwise direct by order on a petition, supported by affidavit pleading one or more of the grounds enumerated in Section 11 of the Act.

9. Respondent includes co-respondents.

- The term "respondent" in these rules shall include a co-respondent so far as the same is applicable.

10. Copy(ies) for respondent(s) to accompany the petition.

- Every petition under the Act shall be accompanied by true copy(ies) thereof to be supplied to respondent(s).

11. How served.

- The notice of petition shall be served by the Court on each respondent by delivery of a copy thereof together with a true copy of the petition in the manner prescribed in the Code of Civil Procedure for the service of summons or notice on a defendant or respondent.

12. Application for substituted service.

- Where personal service cannot be effected leave to substitute some other mode of service may be granted upon an application.

13. Service by advertisement.

- When it is ordered that a notice to respondent(s) shall be advertised the form of advertisement shall be settled by the Court and a copy of the newspaper containing the advertisement shall be placed on record.

14. Order dispensing with service of petition.

- No order dispensing with service of a petition upon a party to be affected thereby shall be made by the Court.

15. Application to stay restitution proceedings.

- At any time after the commencement of proceedings for restitution of conjugal rights the respondent may apply to the Judge for an order to stay the proceedings by reason that he or she is willing to resume or to return to cohabitation with the petitioner.

16. Answer to petition.

- A respondent who has entered an appearance may within time limited by the notice file with the Court an answer to the petition. Such answer will be signed and verified in the manner required by law for the verification of pleadings. A copy of the answer shall be delivered to the petitioner on the first hearing in the case.

17. Reply to Answer.

- Where in any suit for the dissolution of marriage it appears from the answer that the respondent prays for relief under section 15 of the Act, the petitioner shall file a reply to the answer within fourteen days from the date of filing the answer. Save as aforesaid no pleading subsequent to the answer shall be delivered except by the leave of the Court.

18. No answer necessary if question of costs or custody of children.

- After entering an appearance a respondent in a suit may without filing an answer be heard in respect of any question as to costs and a respondent who is husband or wife of the petitioner may be heard also as to custody of or access to children.

19. Evidence by affidavit.

- Where any party proposes under Section 51 of the Act to verify his case by affidavit such affidavit or affidavits must be filed any copy(ies) supplied to the other party at least two days before the next date fixed for the hearing of the case. The other party shall forthwith apply, if necessary to the Court for directions as to the deponents being produced for cross-examination at the hearing.

20. Security for costs of Commission.

- When an order is made for the examination of a witness on commission or de bene asse a wife may apply for security for her costs of the examination at the time of the order or subsequently by petition.

21. Separate trial of issues.

- A Judge may direct, and any petitioner and any party to a cause who has entered an appearance may apply to the Court for a direction for, the separate trial of any issue or issues of fact, or any question as to the jurisdiction of the Court.

22. Petition to reverse decree.

- A petition to the Court for reversal of a decree of judicial separation must set out the grounds on which the petitioner relies.

23. Appearance of party praying reversal.

- Before such a petition can be filed an appearance on behalf of the party praying for a reversal of the decree of judicial separation must be entered in the suit in which the decree has been pronounced.

24. Subsequent pleadings and proceedings.

- All subsequent pleadings and proceedings arising from such petition and answer shall be filed and carried on in the same manner as before directed in respect of an original petition and answer thereto so far as such directions are applicable.

25. Application to show cause.

- Any person other than an officer appointed under Section 17-A of the Act wishing to show cause under Section 16 of the Act against making absolute a decree nisi shall apply ex parte by petition to the Court for leave to show cause, if the leave be granted such person shall within seven days from the date of the order enter an appearance in the case in which such decree nisi has been pronounced and file affidavits setting forth the facts upon which he relies, and shall within seven days from appearance serve certified copies of such affidavits on the party or the counsel for the party in whose favour the decree nisi has been pronounced.

26. Affidavits in answer.

- The party in the suit in whose favour the decree nisi has been pronounced may within fourteen days after delivery of the affidavits file affidavits in answer, and the person showing cause against the decree nisi being made absolute may within fourteen days file affidavits in reply.

27. No affidavit in rejoinder without leave.

- No affidavits shall be filed in rejoinder to the affidavits in reply without leave of the Judge and subject to any direction by the Judge the matter shall be heard and decided in the same manner as provided in the case of an original petition.

28. Six months between decree nisi and absolute.

- The decree nisi shall not be made absolute till after the expiry of not less than six months from the day on which the nisi decree was pronounced.

29. Petition for alimony.

- A wife who is petitioner in a suit after service on the husband of the notice of petition, and a wife who is respondent, may after entering appearance, file a petition for alimony pending the suit under Section 36 of the Act.

30. Answer thereto.

- The husband may within fourteen days or such further time as may be allowed file an answer thereto duly verified as required by law for a pleading.

31. Hearing of summons.

- Such notice shall be returnable before the Judge who may make an order on the said petition or give such directions as to further evidence as he may think fit.

32. Applications under Sections 37 and 38 of Divorce Act.

- All applications under Section 37 of the Act shall be made to the Court and shall be supported by affidavit. Such applications must be brought within one month of the completion of the decree absolute declaring a marriage to be dissolved or decree for judicial separation, as the case may be under sub-section (1) of Section 45-G of the Act, for directions, from the Judge on a petition. Application for the appointment of a new trustee under Section 38 of the Act shall be made by petition to the Court.

33. Date of payments under Section 37 to commence.

- Monthly or weekly sums ordered to be paid to a wife for her maintenance and support under Section 37 of the Act shall, unless otherwise ordered, commence from the date of the decree absolute or decree for judicial separation, as the case may be.

34. Interim order.

- Pending the final determination of an application under Section 37 of the Act an interim order may be made upon such terms as shall appear to the Court to be just and without prejudice to the effect of the order to be ultimately made.

35. Applications under Sections 39 and 40 of Act.

- Applications under Sections 39 and 40 of the Act shall be made on petition to the Court. The Court may make such reference for enquiry or report and to such officer as it may think fit but no order for the settlement of a wife's property or for the settlement of damages or for variation of settlements shall be made except by the Court.

36. Applications under Sections 41 and 43 of Act.

- Applications for interim orders under Sections 41 and 43 of the Act shall be made by petition to the judge and shall be supported by affidavit.

37. Applications under Sections 42 and 44 of Act.

- Applications under Sections 42 and 44 of the Act shall be made by petition, which shall be verified as required by law for a plaint and which together with a notice returnable before the Judge shall be served personally upon the party or parties to be affected thereby except where leave shall have been obtained from the Judge to dispense with such service or to substitute some other form of service.

38. Showing cause.

- Any such party may show cause against the petition by filing affidavits or by filing an answer verified as required by law in the case of a pleading.

39. Taxation.

- All bills of costs shall be referred to the Deputy Registrar or the Superintendent in the District Court for taxation and may be taxed by him without any special order for that purpose.

40. Procedure to obtain order or wife's costs.

- When the pleadings are complete, or by orders of a Judge obtained on petition, at any earlier stage, a wife who is a petitioner or has filed an answer, may file her bill or bills of costs for taxation as against her husband and the Judge may ascertain or cause to be ascertained what is a sufficient sum of money to be paid into Court or what is a sufficient security to be given by the husband to cover the cost of the wife for and incidental to the hearing of the cause, and may thereupon, unless the husband shall prove to the satisfaction of the Judge that wife has sufficient separate estate or shows other cause, issue an order to the husband to pay her costs upto the setting down of the cause and to pay into Court or secure the costs of hearing within a time to be fixed by the Judge. The Judge may in his discretion order the costs upto setting down of the cause to be paid into Court.

41. Application under Section 8 of the Act.

- An application to the High Court to remove a suit or proceeding under Section 8 of the Act shall be made by an application to the Judge in open Court for a Rule upon the party or parties concerned to show cause against such removal.

42. Extension of time.

- The time fixed by these rules for the performance of any act may in any particular case, be enlarged by the orders of a Judge subject to such terms and conditions as to costs or other matters as the Judge may think fit to impose.

43. Forms.

- The forms given in the Appendix to these rules may be used in the proceedings under the Indian Divorce Act, 1869.(High Court notification No. 291-Rules/XXVII-16, dated the 13th December, 1956).AppendixForm AIn the Punjab High Court at

_____ District(Rule 11)Matrimonial JurisdictionSuit No.

_____ of _____ 19 _____._____

Petitioner,versus_____

Respondent._____

Co-respondent.To _____Whereas
 _____ has instituted a suit in this Court against you for
 _____ under the provisions of the Indian Divorce Act, Section(s)
 _____ (a copy of this petition presented by
 the said petitioner is sent to you herewith) and you are hereby summoned to appear in this Court on
 the _____ day of _____ at 10 o'clock in the forenoon to answer the said suit, either in
 person or by recognized agent duly instructed and able to answer all material questions relating to
 the suit, or who shall be accompanied by some other person able to answer all such questions, or by
 an Advocate/Pleader of this Court similarly instructed or accompanied, and you are directed to
 produce on that day all the documents upon which you intend to rely in support of your defence.
 You may file an answer with this Court within _____ days of the service of this notice. Take
 notice that, in default of your appearance on the day and in the manner above mentioned the suit
 will be heard and determined in your absence. Given under my hand and the seal of the Court this
 _____ day of _____. By order, Superintendent/Supdt. Judicial, for
 District Judge/for Dy. Registrar at _____. Note. - Hours of attendance at the Court are
 from 10 a.m. till 4 p.m. daily, Sundays and holidays excepted. Form B In The Punjab High Court at
 _____ Judicial Department Matrimonial Jurisdiction Reference Side _____
 Case No. _____ of 19 _____
 Plaintiff, versus _____
 Respondent, _____ Co-Respondent. Suit :- For
 dissolution of marriage. To _____ Whereas a decree for
 dissolution of marriage between the parties above-named was made by the District Judge of the
 District on the _____ day of _____ 19 _____, subject to confirmation by the
 Punjab High Court for which proceedings have been forwarded under Section 17 of the Indian
 Divorce Act, 1869, Notice is hereby given to you that the _____ day of _____
 19 _____, has been fixed by this Court for the hearing of the reference; you are also hereby
 informed that unless you move this Court, on or before the said date, either in person or by duly
 authorised agent fully instructed by you 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, or by an Advocate or
 Vakil of this Court, so instructed, to confirm the said decree, the Court will not take the proceedings
 into consideration. Given under my hand and the seal of the Court, this _____ day
 of _____, 19 _____. By orders, &c., Superintendent, Judicial, for Deputy Registrar