

The Muslim Women (Protection Of Rights On Divorce) Rules, 1986

UNION OF INDIA

India

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Rule

THE-MUSLIM-WOMEN-PROTECTION-OF-RIGHTS-ON-DIVORCE-RULE of 1986

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The Muslim Women (Protection Of Rights On Divorce) Rules, 1986Published vide NotificationG.S.R. 776(E), dated 19.5.1986, published in the Gazette of India, Extraordinary, Part 2, Section 3(i), dated 19.5.1986.

17.

/772In exercise of the powers conferred by section 6 of the Muslim Women (Protection of Rights on Divorce) Act, 1986 (25 of 1986), the Central Government hereby makes the following rules for carrying out the purposes of the said Act, namely:-

1. Short title and commencement

.- (1) These rules may be called The Muslim Women (Protection of Rights on Divorce) Rules, 1986. (2) They shall come into force at once.

2. Definitions

.- In these rules, unless the context otherwise requires, - (a) "Act" means the Muslim Women (Protection of Rights on Divorce) Act, 1986 (25 of 1986); (b) "Code" means the Code of Criminal Procedure, 1973 (2 of 1974); and (c) "Form" means form annexed to these rules.

3. Service of summons

.- (1) Every summons issued by a Magistrate on an application made under the Act, shall be in writing, in duplicate, signed by the Magistrate or by such other officer as he may, from time to time, direct, and shall bear the seal of the Court. (2) Every such summons shall be accompanied by a true copy of the application. (3) Every summons issued under sub-rule (1) shall specify the date of the first hearing of the application which shall not be later than seven days from the date on which the summons is issued. (4) Every summons shall be served by a police officer or by an officer of the Court issuing it. (5) The summons shall, if practicable, be served personally on the respondent, by delivering or tendering to him one of the duplicates of the summons. (6) Every respondent on whom the summons is so served shall, if so required by the serving officer, sign a receipt, therefor on the back of other duplicate. (7) Where the respondent cannot, by the exercise of due diligence, be found, the summons may be served by leaving one of the duplicates for him with some adult male member of his family residing with him, and the person with whom the summons is so left shall, if so required by the serving officer, sign a receipt, therefor on the back of the other duplicate. (8) If the service cannot, by the exercise of due diligence, be effected as provided in sub-rule (6) or sub-rule (7), the serving officer shall affix one of the duplicates of the summons to some conspicuous part of the house or homestead in which the respondent ordinarily resides; and thereupon the Court, after making such inquiries as it thinks fit, may either declare that the summons has been duly served or order fresh summons in such a manner as it considers proper. (9) When a Court desires that a summons issued by it shall be served at any place outside its local jurisdiction, it shall ordinarily send such summons in duplicate to a Magistrate within whose local jurisdiction, the respondent resides, or is, to be there served. (10) When a summons issued by a Court is served outside its local jurisdiction and in any case when an officer who served the summons is not present at the hearing of the case, an affidavit purporting to be made before a Magistrate that such summons has been served and a duplicate of summons purporting to be endorsed [in the manner provided by sub-rule (6) or sub-rule (7) by the person to whom it was delivered or tendered or with whom it was left shall be admissible in evidence and the statements made therein shall be deemed to be correct unless and until the contrary is proved. (11) The affidavit mentioned in sub-rule (10) may be attached to the duplicates of the summons and returned to the Court.

4. Evidence

.- All evidence in the proceedings under the Act shall be taken in the presence of the respondent against whom an order for the payment of provision and maintenance, mahr or dower or the delivery of property is proposed to be made or, when his personal attendance is dispensed with, in the presence of his pleader, and shall be recorded in the manner specified for summary trials under the Code: Provided that if the Magistrate is satisfied that the respondent is wilfully avoiding service or wilfully neglecting to attend the Court, the Magistrate may proceed to hear and determine the case ex parte and any order so made may be set aside for good cause shown on application made within seven days from the date thereof subject to such terms as to payment of cost to the opposite party as the Magistrate may think just and proper.

5. Power to postpone or adjourn proceedings

.-In every application under the Act, the proceedings shall be held as expeditiously as possible and in particular, when the examination of witnesses has once begun, the same shall be contained from day to day until all the witnesses in attendance have been examined unless the Court finds adjournment of the same beyond the following day to be necessary for reasons to be recorded.

6. Costs

.-The Court in dealing with the applications under the Act shall have power to make such order as to cost as may be just.

7. Affidavit under section 5

.-An affidavit filed under section 5 of the Act shall be in Form "A".

8. Declaration under section 5

.-A declaration in writing filed under section 5 shall be in Form "B".Form "A"Form of Affidavit(See rule 7)I/ Weson/wife of.....aged.....years, resident of and.....son/wife of..... agedyears, resident of.....hereby state on oath as follows:

1. That I/We have informed myself /ourselves of the provisions of section 5 of the Muslim Women (Protection of Rights on Divorce) Act, 1986 and of the provisions of sections 125 to 128 of the Code of Criminal Procedure, 1973.

2. That I/We desire to be governed by the provisions of sections 125 to 128 of the Code of Criminal Procedure, 1973 in preference to the provisions of the Muslim Women (Protection of Rights on Divorce) Act, 1986.

3. That the contents of the above affidavit are true.

Deponent/DeponentsSigned and verified atthis the.....day of.....20.....Deponent/Deponents.Form "B"Form of Declaration(See rule 8)I/Weson/wife of.....aged.....years, resident of and.....son/wife of..... agedyears, resident of.....hereby declare as follows:

1. That I/We have informed myself /ourselves of the provisions of section 5 of the Muslim Women (Protection of Rights on Divorce) Act, 1986 and of the provisions of sections 125 to 128 of the Code of Criminal Procedure, 1973.

2. That I/We desire to be governed by the provisions of sections 125 to 128 of the Code of Criminal Procedure, 1973 in preference to the provisions of the Muslim Women (Protection of Rights on Divorce) Act, 1986.

3. That the contents of the above declaration are true.

Deponent/Deponents Signed and verified atthis the.....day
of.....20.....Deponent/Deponents.