

Rajasthan (High Court) Family Courts Rules, 1990

RAJASTHAN

India

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Chapter I Preliminary

1. Title.

- (i) These rules may be called the Rajasthan (High Court) Family Courts Rules, 1990.

2. Definitions.

- (i) In these rules unless there is anything repugnant to the subject or context.(a)"Act" means the Family courts Act, 1984 (Central Act No. 66 of 1984).(b)"Court" means the Family Court established under Section 3 of the Act, and(c)"High Court" means the High Court of Judicature for Rajasthan.(ii)Words and expressions defined in the Act shall wherever used in these rules, be construed to have the meaning assigned to them by the Act.

3. Sitting of the court.

- (i) The Principal seat of the Court shall be located at the place notified by the State Government under section 3 of the Act.(ii)The Court shall ordinarily hold the Court at its principal seat.

4. Working hours.

- The working hours of the Court throughout the year shall be from 10.00 A.M. to 5.00 P. M. with a lunch break of half an hour from 1.30 P.M. to 2.00 P.M. :Provided that the Judge may hold the Court beyond the working hours and even on Sundays and Holidays, if he thinks necessary.

5.

The civil Court Calendar shall be the Calendar of the Courts except that there will be no summer vacation.

6. The administrative control over the Family Courts shall vest in the High Court.

Chapter II

Institution of Proceedings

7. Suit or proceedings.

- All actions instituted before the Court shall be by way of plaint, or petition or application or otherwise as the Court thinks fit.

8. Petition etc. to be in triplicate.

- A petition, plaint or any application will be filed in triplicate in Hindi in Devnagri script or any other language with its transcription in Hindi. One of such petitions, plaints or applications will be forwarded by the Office Superintendent/Reader of the Court to the Principal counsellor, if appointed.

9. Contents of certain petitions.

- In addition to the particulars required to be given under Order 7, Rule 1 of the Code of Civil Procedure, 1908 and Section 20 (i) of the Hindu Marriage Act, 1955, every petition for judicial separation, nullity of marriage and divorce shall contain the following particulars.-(a)the place and date of marriage,(b)the names of the parties and their occupation, the principal place and address where the parties resided and cohabited including the address where they last resided together,(c)the names of the children, if any, of the marriage together with date of birth or ages,(d)if prior to the date of the petition, there has been any proceeding under the Hindu Marriage Act, 1955 between the parties to the petition, the full particulars thereof and the result of such proceedings,(e)if the petition is for restitution of conjugal rights, the date on or from which and the circumstances under which the respondent withdrew from the society of the petitioner,(f)if the petition is for judicial separation, the matrimonial offence alleged or other grounds upon which the

relief is sought, together with full particulars thereof so far such particulars are known to the petitioner. (i) in the case of alleged desertion, the date and the circumstances under which it begun, (ii) in the case of cruelty or sexual intercourse with any person other than his or her spouse, the specific act of cruelty or sexual intercourse, and the occasion when and the places where such acts were committed together with the name and address of the person or persons with whom the respondent had sexual intercourse, , if known to petitioner, (iii) in case of virulent leprosy or venereal disease in a communicable form, when such ailment begun to manifest itself, the nature and the period of the curative steps taken together with the name and address of the person who treated such ailments and in the case of venereal disease that it was not contacted from the petitioner and (iv) in the case of unsoundness of mind, the time when such unsoundness begun to manifest itself, the nature and period of any curative steps together with the name and address of the person who treated such unsoundness of mind. (g) If the petition is for divorce, the matrimonial offence alleged or other grounds upon which the relief is sought together with the full particulars thereof so far as such particulars are known to the petitioner, e.g. (i) in the case of allegation that the other party, after the solemnisation of the marriage, had voluntary sexual intercourse with any person other than his or her spouse, that specific act and the occasion when and the place where such act or acts was or were committed together with name and address of the person with whom sexual intercourse, was committed, (ii) in the case of incurable unsoundness of mind, the time when such unsoundness begun to manifest itself; the nature and period of any curative steps taken together with the name and address of the person who treated for such unsoundness of mind, (iii) in the case of virulent and incurable form of leprosy or venereal disease in a communicable form when such ailment begun to manifest itself, the nature and the period of any curative step taken together with the name and address of the person who treated for such ailment, and (iv) in case of presumption of death; the last place where the parties lived together and the date when and the place where the respondent was last seen or heard of as alive and the steps, if any, taken to ascertain his or her whereabouts. (h) if the petition is for a decree of nullity of marriage on the grounds specified in clause (c) or clause (d) of Section 12 of the Hindu Marriage Act, 1955, the time when the fact relied on were discovered and whether or not marital intercourse with the consent of the petitioner took place after the discovery of the said facts. (i) property mentioned in the section 27 of the Hindu Marriage Act, 1955, if any. (j) whether marriage has been registered under section 8 of the Hindu Marriage Act, 1955. (k) the petition shall set out at the end of relief or reliefs sought including any claim for:- (i) Custody, maintenance and education of children, (ii) permanent alimony and maintenance, and (iii) costs. Where a claim is made under clause (ii) above, the petition shall specify the annual or capital value of the respondent's property, the amount of his or her annual earnings and other particulars relating to his or her financial resources and the particulars relating to the petitioner's income and other property.

10.

Every petition for divorce on any of the grounds mentioned in clause (i) and (ii), sub-section (1-A) of the Section 13 of the Hindu Marriage Act, 1955 shall be accompanied by a certified copy of the decree for judicial separation or for restitution of conjugal rights, as the case may be.

Chapter II

Service of Summons etc.

11. Service of process.

- All process shall be served in the manner prescribed in the Code of Civil Procedure, 1908, except in proceedings under chapter IX of the Code of Criminal Procedure, 1973 :Provided that notices of petitions arising out of any matrimonial law shall be served personally on the respondent except when the Court under exceptional circumstances orders otherwise.

12. Procedure for unserved summons.

- If the writ of summons is not served within three months from the date of the filing of the petition, the Reader shall unless good cause is shown, place the petition before the Court for direction and appropriate order and shall notify such petition on the notice board one week before they are placed for dismissal before the Court.

Chapter IV

Counselling and Its Procedure

13. Association of person engaged in the field of Social Welfare.

- Family Court may take the assistance of Counsellor or Counsellors for persuading parties for reconciliation or to arrive at the settlement.

14. Association of other persons.

- If deemed necessary, the Presiding Officer may seek the association of any of the relatives of the parties, social workers and other experts for achieving a reconciliation between the parties at any stage.

15. Other duties of Counsellor.

- Under the directions of the Court, Counsellor may in the discharge of his duties.-(a)pay visit to the home of any party,(b)interview relatives, friends and acquaintances of the parties or any of them,(c)seek such information as he may deem fit from the employer,(d)refer the parties to an expert of medicine or psychiatry.

16. Secrecy to be maintained by the Counsellors.

- Information gathered by the Counsellor, any statement made before the Counsellor, or any notes or report prepared by the Counsellor will be treated as confidential. The Counsellor shall not be called upon to disclose this information, statement, notes or report to any Court except with written consent of both the parties :Provided, however, that the Counsellor will submit to the Court a report relating to home environment of the parties concerned, their personalities and their relationship with their child and/or children in order to assist the Court in deciding the question of custody or guardianship of any child or children of the marriage, if desired by the Court :Provided further that the Counsellor will also submit to the Court a report relating to home environment, income or standard of living of the party or parties concerned in order to assist the Court in determining the amount of maintenance and/or alimony to be granted to one of the parties if desired by the Court.

17. Counsellors not to give evidence.

- The Counsellor shall not be permitted to give evidence in any court in respect of any information, statement, notes or report prepared by him.

18. Report of Counsellor on any other relevant subject.

- The Court may request the Counsellor to submit to it a report on any other subject in order to assist the Court in adjudicating upon the matter before it or any part thereof.

19. Settlement before Counsellor.

- When the parties arrive at a settlement before the Counsellor relating to the dispute or any part thereof, such settlement shall be reduced to writing and shall be signed by the parties and countersigned by the Counsellor. The Court shall pronounce a decree or order in terms thereof unless the Court considers the terms of settlement unconscionable.

20. Counsellor's right to supervise custody of children.

- The Counsellor will be entitled, if directed to supervise the placement of children in custody of a party and will be entitled to pay surprise visit to the home where the child resides. On the report of the Counsellor the Court may pass necessary order after notice to the parties relating to the Custody of the child.

21. Applicability of the General Rules Civil and General Rules Criminal.

- For removal of doubts, it is hereby declared that General Rules (Civil), 1986, General Rules (Criminal), 1988 and Rules relating to the Payment of expenses to witness in Criminal Courts, 1957 and Civil Courts, 1958 shall, as far as practicable, apply to the proceedings before the Family Courts, so far as, they are not inconsistent with the provisions of the Act and Rules made thereunder.

22. [Permission for representation by a Lawyer. - The Presiding Officer of a Family Court, in his discretion, may permit a Lawyer/Advocate to appear in the Court wherever he feels that it is necessary in the interest of justice.]
[Added vide Notification dated 11.4.1996 (Published in Rajasthan Gazette Extraordinary, Part 4(Ga), Dated 27.4.1996.)]