

Calcutta High Court Contempt of Courts Rules, 1975

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Rule

CALCUTTA-HIGH-COURT-CONTEMPT-OF-COURTS-RULES-1975 of 1975

- Published on 22 August 1975
- Commenced on 22 August 1975
- [This is the version of this document from 22 August 1975.]
- [Note: The original publication document is not available and this content could not be verified.]

Calcutta High Court Contempt of Courts Rules, 1975Published vide Notification No. 10171-G., dated 22nd August 1975.Rules Regulating the Procedure in Contempt of Court matters framed under the Contempt of Courts Act, 1971*Notification No. 10171-G., dated 22nd August 1975. - In exercise of the powers conferred by section 23 of the Contempt of Courts Act, 1971 and by Article 215 of the Constitution of India and all other powers in that behalf enabling the High Court of Calcutta hereby makes the following rules to regulate the proceedings for contempt of itself or of a Court subordinate to it under the Contempt of Courts Act, 1971 (Central Act 70 of 1971).

1.

(1)These rules may be called Contempt of Courts Rules, 1975.(2)They shall come into force from such date as may be fixed by the High Court by a Notification in the Official Gazette.

1A.

In these Rules, unless it is repugnant to the subject or context, the words and expressions 'Act', 'Court' shall mean respectively the Contempt of Courts Act, 1971 and the High Court. The "Form" shall mean the Forms mentioned in the Appendix to the Rules."Civil Contempt" and "Criminal Contempt" shall have the same meaning as in the definitions in the Contempt of Courts Act, 1971.

2.

(1)Proceedings in connection with a Civil Contempt may be initiated-(a)by a petition presented by a party or parties aggrieved; or(b)by the High Court on its own motion; or(c)on a reference made to the High Court by the subordinate courts as in the case of "Criminal Contempt".(2)Proceedings in

connection with a criminal contempt may be initiated-(a)on a motion of the High Court in respect of a contempt committed upon its own view under section 14 of the Act; or(b)on its own motion by the High Court under section 15(1) of the Act; or(c)on a motion founded on a petition presented by the Advocate General under section 15(1)(a) of the Act; or(d)on a motion founded on a petition presented by any other person with the consent in writing of the Advocate-General under section 15(1)(b) of the Act; or(e)on a reference made to the High Court by the subordinate courts under section 15(2) of the Act, containing the following particulars-(a)a brief statement of the case;(b)the particulars of the contumacious acts;(c)name, address and other particulars of the respondents along with the copies of the papers relating to contumacious acts.

3.

Every petition shall be expressed to be made in the "Special Jurisdiction" of this Court provided that every petition for civil contempt shall be expressed to be made in the "Special Civil Jurisdiction" and that every petition for criminal contempt in the "Special Criminal Jurisdiction".

4.

Every petition and affidavit in connection therewith (suitably modified where necessary) shall be entitled:In the matter of Contempt of CourtAndIn the matter of (state briefly the nature of contumacious conduct complained of)AndIn the matter of (state the name and other particulars required as in a plaint, of the petitioner and each of the petitioners)-PetitionerVersus(State the name and other particulars required, as in a plaint, of the respondent or each of the respondents)-Respondents

5.

Every petition and affidavit in connection therewith shall consist of paragraphs numbered consecutively and shall be fairly and legibly type-written on demy-foolscap size paper, or on paper ordinarily used in the High Court for transcribing petition with quarter margin.

6.

Every petition shall contain full particulars of the materials upon which the petition is grounded.

7.

The prayer to the petition shall distinctly state the particular contumacious conduct alleged for which the rule is prayed for.

8.

Every petition shall be signed and dated by the petitioner or his duly authorised agent.

9.

Every petition shall be verified by the solemn affirmation made by the petitioner or by a person or persons having cognizance of facts stated and shall state clearly by reference to the paragraphs of the petition whether the statements are based on kNowledge inFormation and belief or on record. Where a statement is based on record sufficient particulars shall be given to identify the records.

10.

Where the petitioner is a company there should be appended an affidavit of competency. Where the petitioner or the respondent is a corporation provision of Order XXIX of the Code of Civil Procedure, in so far as they are applicable shall apply.

11.

All annexures to the petition shall be type-written (except where they are in the vernacular when they may be typed or be in manuscript) and transcribed on the same kind of paper as is used in the body of the petition. The annexure shall be separately paginated and marked with exhibits marks (for example - A.B.C.D. etc.) and shall bear certificate of the Commissioner before whom the affidavit is made.

12.

Original documents and certified copies may Not be annexed, only transcribed copies thereof need be annexed.

13.

Where a document is Not in the English language, the Court may direct that the party filing the same as an annexure should get it officially translated. The procedure for such translation and the fees to be paid therefor shall be as provided in the rules of the Original Side.

14.

Where the respondent is the Central Government or the State Government the cause-title shall mention the person upon whom the Notice or the rule is to be served.

15.

All petitions in connection with a civil contempt grounded on wilful disobedience to a judgment decree, direction, order or other process of a Court or wilful breach of an undertaking given to a Court shall be heard by the Judge or Judges who passed the judgment or the decree or gave the direction or the order or issued the writ or other process or before whom the undertaking was given.

16.

All petitions presented by the Advocate-General and all petitions presented by any other person under section 15 of the Act shall be moved before the Bench presided over by the Chief Justice or by such other Bench as the Chief Justice may from time to time appoint. All matters relating to contempt of subordinate courts, brought or coming to the Notice of this Court shall be dealt with by the Bench presided over by the Chief Justice or by such other Bench as the Chief Justice may from time to time appoint.

17.

Rules issued by any Court on its own motion shall be dealt with by that particular Court provided that such rules under section 15 of the Act shall be heard and determined by such Bench of Judges as the Chief Justice may appoint.

18.

Notwithstanding anything contained in Rules 15 to 17 above, the Chief Justice may assign a rule for hearing before another Judge or Bench if required in the special circumstances of the case or if the Judge or the Bench reports or report to the Chief Justice for so doing.

19.

The Court may issue Rule Nisi or summarily reject the petition or make such order thereupon as thought fit. The Rule Nisi shall be drawn up, as far as may be, in the model Form in Form No. 1, Appendix I.

19A. Reference made by the subordinate courts shall be placed before the Bench in Chambers for orders.

20.

Where a rule is issued by the Court on its own motion or on a motion made by the Advocate-General under section 15, the Rule Nisi shall be drawn up, as far as may be in the model Form in Form No. 2, Appendix I.

21.

Preparation of paper-book for use of the Court and of the contemner shall be made by the office as per direction of the Court.

22.

Provisions in these rules shall apply mutatis mutandis in cases of contempt of subordinate courts.

23.

Every attempt shall be made to serve the Rule Nisi personally upon the alleged contemner or contemnors, but in suitable cases, the Court on being satisfied that personal service canNot be effected may make an order for an alternative Form of service provided for by the Code of Civil or Criminal Procedure.

24.

In applications before a Judge or Judges sitting in the Original Side minutes shall be maintained as in applications made in the Original Side of this Court. In applications before a Judge or Judges sitting in the Appellate Side an Order Book shall be maintained as in Civil Revision cases. In the case of a Criminal Contempt, however, order sheets shall be maintained as in Criminal Revision cases.

25.

So far as appearance of Advocates and Attorneys are concerned the rules applicable in the Original Side shall apply to applications made in the Original Side and the rules applicable in the Appellate Side shall apply to applications made in the Appellate Side.

26.

Upon a Rule Nisi being issued on a petition, the petitioner shall within one week of the making of the order file as many typed copies of the petition as there are respondents. Where the Central Government, State Government or a Government Department is a party respondent, an additional copy of the petition will be filed for service upon, the Legal Remembrancer of the State or Solicitor to the Central Government.

27.

Except as otherwise specified in these Rules-in respect of applications moved before the Original Side, the Rules of the Original Side relating to interlocutory applications and in respect of applications moved before the Appellate Side' or in respect of proceedings for Criminal Contempt initiated in the Appellate Side Rules of the Appellate Side relating to Civil Revision Cases or

Criminal Revision Cases, as the case may be, shall apply mutatis mutandis with regard to the following matters:-(1)The drawing up of all interlocutory Orders and Rule Nisi.(2)The service of all orders and the Rule Nisi upon the respondents or the contemnors :Provided that in applications moved before the Appellate Side the cost of serving the interlocutory orders by post upon the respondent or respondents shall be borne by the petitioner.(3)The appointment of next friend for a petitioner or a guardian ad-litem for the respondent or the contemner, where the petitioner or the respondent or the contemner as the case may be, is as minor or a person under disability.(4)The entering of appearance of the respondents or the contemnors including the filing of Vakalatnamas and power of attorney.(5)The making of interlocutory applications.(6)Affirmation of affidavits.(7)Filing of petitions and affidavits.(8)Payment of court-fees.(9)Payment of process-fees.(10)The drawing up of order generally.(11)Assessment or taxation of cost.(12)Any matter, Not expressly covered by these rules.

28.

In applications moved before the Original Side, when the return of service has been filed and in proceedings for criminal contempt initiated in the Appellate Side when the return of service (which shall include a return of Non-service) upon the contemner-opposite party has been received and on the expiry of the returnable date the matter shall be put down in the daily or peremptory list of the appropriate Court for direction.

29.

The respondent or the contemner may file an affidavit showing cause and the petitioner may file a reply thereto within such time as may be directed by the Court. The Court may, however, in a contempt proceeding take such evidence as may be considered necessary.

30.

All affidavits shall be drawn up in paragraphs numbered consecutively and shall be type-written, transcribed and verified in the same manner as a petition. The annexures shall be in the same Form as a petition and consecutively paginated.

31.

Excepting in cases where rules have been issued by the Court on its own motion, No affidavit shall be allowed to be filed unless the same be accompanied by a receipt showing service of a copy thereof on the Advocate or Attorney appearing for the other side.

32.

(1)Fines imposed by any Judge or Bench of the Appellate Side or the Original Side shall, unless the Court directs otherwise, be deposited with the Registrar, Appellate Side or Original Side as the case

may be.(2)Fine imposed upon a contemner if Not deposited may be realised in accordance with the procedure prescribed by section 421 of the Code of Criminal Procedure, 1973 (Act 2 of 1974).

33.

Orders for committal shall be drawn up, as far as may be in accordance with the model Form set out in Appendix II.

34.

The Court may call upon the Advocate-General to appear and conduct any contempt proceeding on behalf of the Court.

35.

In respect of appeals from the orders of any Judge or Bench of the Original Side the Rules of the Original Side relating to appeals and in respect of appeals from the order of any Judge or Bench of the Appellate Side, the Rules of the Appellate Side shall apply mutatis mutandis.

36. Repeal and Savings.

- On the coming into force of these rules, all existing rules or the like governing any matter dealt with or covered by these rules shall stand repealed :Provided that this appeal shall Not affect or invalidate anything done, any action or decision taken, any disposal made, any order or proceeding made or issued under the existing rules before the amendment of these Rules. Appendix I Forms Of Rule Nisi Form No. 1 Upon reading a petition of and his/their affidavit of verification thereof, dated..... and the exhibits or annexures to the said petition and upon hearing advocate or the said petition(s). It is ordered that Rule do issue calling upon the respondent/ respondents to show cause why he/they should Not be committed to prison or otherwise penalised or dealt with for having (set out the nature of contumacious conduct). And it is further ordered that pending the disposal of this Rule the respondent/respondents are restrained from..... (State particulars). The Rule is made returnable..... On the returnable date, it is ordered, the respondent/respondents shall appear personally before this Court..... at a.m. /p.m. and shall Not leave the Court without permission. Form No. 2 Whereas it has been brought to the Notice /been reported to of this Court by an affidavit filed by the Advocate-General, Registrar, Appellate/Original Side of this Court that the respondent/respondents has/have..... (Set out the nature of contumacious conduct) It is ordered that a Rule do issue calling upon the respondent(s) to show cause why he/they should Not be committed to prison or otherwise penalised or dealt with for the acts or conduct stated above. The Rule is made returnable on..... The contemner shall be personally present in Court at..... on the returnable date and shall Not leave the Court without permission. Appendix II In The High Court At Calcutta (Special Jurisdiction) Contempt of

Court No..... of..... To The Sheriff of the Town of Calcutta
and..... To The Superintendent of the Presidency
Jail Whereas..... (Give full name and address of the contemner) has
this..... day of 20..... been found guilty of contempt of court for
(Give particulars)..... and whereas it has been ordered that the
said..... (Give name of the contemner) be..... (Give particulars of the
sentence imposed) These are therefore to will and require you the said Sheriff to take the
said..... and to carry and convey..... forthwith to the said Jail under safe and
secure conduct. And you the said Superintendent aforesaid are hereby in the name of President of
the Union of India commanded and required to take and receive the said..... into the
Jail and keep imprisoned therein until the further order of this Court. Witness..... Chief
Justice at Calcutta aforesaid the..... day of..... in the year Two
thousand and Attorney. Registrar. By order of the High Court Deputy
Registrar. Suit No..... of 19..... In The High Court At Calcutta Special
Jurisdiction/Civil Jurisdiction versus Contempt Warrant Filed this..... day
of..... 20..... Assistant Registrar Attorney.