

Rules (Consolidated) Under the Code of Civil Procedure, 1908

RAJASTHAN

India

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Rule

RULES-CONSOLIDATED-UNDER-THE-CODE-OF-CIVIL-PROCEDURE-1908

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Rules (Consolidated) Under the Code of Civil Procedure, 1908[Made by the High Court of Judicature for Rajasthan vide Section 122 of the same, from time to time]Order II[1. The following shall be added as Rule 8 in Order II."8(1) Where such objection has been allowed by the Court, the plaintiff shall be permitted to select the cause of action with which he will proceed and shall within a time to be fixed by the Court amend the plaint by striking out the remaining causes of action.(2) When the plaintiff has selected the cause of action with which he will proceed, the Court may on his application pass an order giving him time within which to submit amended plaints for the remaining causes of action and of making up the court fees that be necessary. Should the plaintiff not comply with the Court's order, the Court shall proceed as provided in Rule 18 of Order VI and as required by the provisions of the Court-Fees Act.] [Vide Notification No. 33/S.R.O. dated 21-7-1954, Published in Rajasthan Gazette, Ordinary, Part IV-C, dated 14-8-1954, page 272, w.e.f. 14-8-1954.]"Order III

2.

The following amendments shall be made in Rule 4 of Order III.(a)In sub-rule (3), the words "or any application relating to such appeal" shall be added between the word "order in the suit" and "any application or act".(b)The following shall be added as sub-rule (6):-"(6) No Government pleader within the meaning of Order XXVII Rule 8-B shall be required to present any document empowering him to act, but such pleader shall file a memorandum of appearance signed by himself and stating the particulars mentioned in sub-rule (5)".

3.

In Rule 5 of the Order III the words "on a pleader who has been appointed to act for any party" shall be substituted for the words "on the pleader for any party."Order IV

4.

In Rule 1 of Order IV the following shall be substituted for sub-rule (i)(i)[Every suit shall be instituted by presenting to the court or such Officer as it appoints in this behalf a plaint, together with as many true copies on plain paper of the plaint as there are defendants for service with the summons upon each defendant, unless the Court, for good cause shown allows time for filling such copies."] [Vide Notification No. 10/S.R.O. dated 29-6-1957, Published in Rajasthan Gazette, Ordinary, Part, IV-C, dated 25-7-1957, page 287 w.e.f. 25-7-1957.]Order V

5.

In Rule 2 of Order V the words "or, if so permitted by concise statement", shall be omitted.

6.

The following proviso shall be added to Rule 10 of Order V :-"Provided that in any case, the court may in its discretion send the summons to the defendant by registered post in addition to the mode of service laid down in this rule. An acknowledgment purporting to be signed by the defendant or an endorsement by postal servant that the defendant refused to take the delivery may be deemed by the Court issuing the summons to be prima facie proof of service.".

7.

In Rule 15 of Order V the words "when the defendant is absent or cannot be personally served" shall be substituted for the words "where in any suit, the defendant cannot be found".[8. The following shall be inserted as proviso to Rule 22 of Order V."Provided that any such summons may instead be addressed to the defendant at the place within such limits where he is residing and may be sent to him by the Court by post registered for acknowledgment purporting to be signed by the defendant or an endorsement by a postal servant that the defendant refused service shall be deemed by the Court issuing the summons to be prima facie proof of service. In all other cases the Court shall hold such inquiry as it thinks fit and either declare the summons to have been duly served or order such further service as may in its opinion be necessary."] [Vide Notification No. 10/S.R.O. dated 29-6-1957, Published in Rajasthan Gazette, Ordinary, Part, IV-C, dated 25-7-1957, Page 287, w.e.f. 25-7-1957.][9. In Order V, in Rule 26, the following proviso shall be inserted:"Provided that the Court issuing the summons shall, if the State Government by notification in the Official Gazette so directs, send the summons to the Government or other officer specified in that behalf, of the foreign territory in which the Court in respect of which a declaration has been made by the State Government under clause (b) is situated and in which the defendant resides, through the Ministry of

the Central Government dealing with the External Affairs, or such officer as may be specified in the said notification in this behalf, or causing the summons to be served upon the defendant by such Court or the officer of the foreign territory as aforesaid, and such court or the officer, returns summons with an endorsement signed by the Judge or any officer of such Court or the aforesaid officer of the foreign territory, that the summons has been served on the defendant in the manner hereinbefore directed such endorsement shall be deemed to be evidence of service." [Vide Notification No. 8/S.R.O., dated 23-12-1964, Rajasthan Government Gazette, Ordinary, Part IV-C, dated 11-3-1965, Page 806(65), w.e.f. 11-3-1965] Order VII[10. The following rules shall be added to Order VII as Rules 19 to 25; viz.] [Vide Notification No. 29/S.R.O., dated 8-7-1954 - Rajasthan Gazette., Ordinary, Part IV-C dated 24-7-1954, page 210 w.e.f 24-7-1954.]" 19. (1) Every plaint or original petition shall be accompanied by a memorandum giving an address at which service of process may be made on the plaintiff or petitioner. Plaintiffs or petitioners subsequently added shall immediately on being so added, file a memorandum of this nature. (2) This address shall be called the registered address and it shall hold good through out interlocutory proceedings and appeals and also for further period of two years from the date of final decision and all purposes including those of execution.

20. An address for service filed under the proceeding rule shall be within the local limits of the district court within which the suit or petition is filed; or of the district court within which the party ordinarily resides, if within the limits of Rajasthan.

21.

(1) Where a plaintiff or petitioner fails to file an address for service, he shall be liable to have his suit dismissed or his petition rejected by the Court suo motu or any party may apply for an order to that effect and the court may make such order as it thinks just. (2) Where a suit is dismissed or a petition rejected under sub-rule (1) the plaintiff or the petitioner may apply for an order to set the dismissal or the rejection aside and if he files a registered address and satisfies the Court that he was prevented by any sufficient cause from filing the registered address at the proper time, the Court shall set aside the dismissal or the rejection upon such terms as to costs or otherwise as it thinks fit and shall appoint a day for proceeding with the suit or petition.

22. Where a party is not found at the address given by him for service and no agent or adult male member of his family on whom a process can be served, is present, a copy of the process shall be affixed to the outer door of the house. If on the date fixed, such party is not present and the process is not declared by the Court under Rule 19 of Order V to have been duly served, another date shall be fixed and a copy of the process shall be sent to the registered address by registered post, and such service shall be deemed to be as effectual as if the process had been personally served.

23. Where a party engages a pleader, processes for service on him shall be served in the manner prescribed by Order III, Rule 5, unless the Court directs service at the address for service given by the party.

24. A party who desires to change the address for service given by him as aforesaid shall file a verified petition, and the Court may direct the amendment of the record accordingly. Notice of such petition shall be given to such other parties to the suit as the court may deem it necessary to inform, and may be either served upon the pleaders for such parties or be sent to them by registered post, as the Court thinks fit.

25. Nothing in these rules shall prevent the Court from directing the service of a process in any other manner, if for any reason it thinks fit to do so."

Order VIII

11.

The following rules shall be added as Rules 11 and 12 of Order VIII."11. (1) Every party whether original, added or substituted who appears in any suit or other proceedings shall on or before the date fixed in the summons or notice served on him as the date of hearing, file in Court a memorandum stating his address for service and if he fails to do so he shall be liable to have his defence struck out and to be placed in the same position as if he had not defended. In this respect the Court may act suo motu or on the application of any party for an order to such effect, and the court may make such order as it thinks just.(2)Where the Court has struck out the defence under sub-rule (1) and has adjourned the hearing of the suit or the proceeding and where the defendant or the opposite party at or before such hearing, appears and assigns good cause for his failure to file the registered address he may upon such terms as the Court directs as to costs or otherwise be heard in answer to the suit or the proceeding as if the defence has not been struck out.(3)Where the Court has struck out the defence under sub-rule (1) and has consequently passed a decree or order, the defendant or the opposite party, as the case may be, may apply to the Court by which the decree or order was passed for an order to set aside the decree or order, and if he files a registered address and satisfies the Court that he was prevented by any sufficient cause from filing the address, the Court shall make an order setting aside the decree or order as against him upon such term as to costs or otherwise as it thinks fit, and shall appoint a day for proceeding with the suit or proceeding:Provided that where the decree or order is of such a nature that it cannot be set aside as against such defendant or opposite party only it may be set aside as against all or any of the other defendants or opposite parties.

12. Rules 19 (2), 20, 22, 23, 24 and 25 of Order VII shall apply, so far as may be, to addresses for service filed under the preceding rule."]

Order IX[12. The following amendment shall be made in Rule 6 of Order IX, viz.,The words "the court may proceed ex-parte" shall be substituted by the words "the Court may make an order that the suit be heard ex-parte."

13.

The following shall be substituted for Rule 7 of Order IX :-"Rule 7. Where the Court has adjourned the hearing of the suit after making an order that it be heard ex-parte and the defendant at or before such hearing appears and assigns good cause for his previous non-appearance, the Court may upon such terms as it directs as to costs or otherwise, set aside the order for the hearing of the suit ex-parte and hear the defendant in answer to the suit as if he had appeared on the day fixed for his appearance.] [Vide Notification No. 13/S.R.O., dated 1-6-1956 - Rajasthan Government Gazette Ordinary, Part IV-C, dated 30-6-1956, page 253, w.e.f. 30-6-1956.]Order XVI[14. Rule 1 of Order XVI shall be amended as follows:-"1. (1) On such date as the Court may appoint and not later than thirty days after the settlement of issues, each party shall present in Court a list of witnesses whom it proposes to produce:[Provided that a party giving evidence in rebuttal may file a [x x x] [Vide Notification No. 10/S.R.O., dated 29-6-1957-Rajasthan Government Gazette, Ordinary, Part IV-C, dated 25-7-1957, Page 287, w.e.f. 25-7-1957.] list of witnesses [x x x] [Omitted by the Amending Notification No. 4/S.R.O., dated 6-10-1970 - Rajasthan Gazette, Ordinary, Part IV-C (II), dated 19-10-1970, Page 51.] not later than fifteen days from the date of closure of the evidence of his opponent.](2)[No party shall produce or obtain process to enforce the attendance to witnesses other than those contained in the list referred to in sub-rule (i), except with the permission of the Court [x x x] [Added by the Amending Notification No. 4/S.R.O., dated 6-10-1970 - Rajasthan Gazette, Ordinary, Part IV-C (II), dated 19-10-1970, Page 51.] and the Court granting or refusing such permission shall record reasons for so doing.](3)On the application to Court or to such officer as it appoints in this behalf, the parties may obtain summonses for persons whose attendance is required in Court.(4)Where in accordance with the proviso to Rule 8 of Order XVI a party has obtained summonses for any witnesses for service by himself or through his agent summonses for any such witnesses shall not unless specially ordered by the Court for reasons to be recorded in writing, be reissued for service in the manner provided for the service of summons to a defendant.]]15. Addition to a new rule after 1, Order XVI. - After Rule 1 of Order XVI of the Code, the following new rule shall be added as Rule 1-A:-"1-A. Subject to the provisions of sub-rule (2) of Rule 1, any party to the suit may, without applying for summons under Rule 1, bring any witness to give evidence or to produce documents."16. The following shall be substituted for Rule 3 of Order XVI:-"The sum so paid into Court may, and if so required by the person summoned, shall be tendered to him at the time of serving the summons, if it can be served personally."

17.

The following proviso may be added to Rule 8 of Order XVI:-"Provided that any party may, by leave

of the Court, by himself or through his agent serve any of his witnesses personally." [Vide Notification No. 29/S.R.O., dated 8-7-1954 - Rajasthan Government Gazette, Ordinary, Part IV-C, dated 24-7-1954, page 210, w.e.f. 24-7-1954.] Order XVIII[18. Rule 4 of Order XV¹¹¹ shall be amended by inserting the following words at the commencement of the rule viz:-"Subject to the provisions of Rule 1 of Order XVI"

19.

The following shall be inserted as sub-rule (4) to Rule 2 of Order XVIII."(4) Where a party himself wishes to appear as witness, he shall so appear before any other witness on his behalf has been examined; provided that the Court may on an application made in this behalf and for reasons to be recorded, permit him to appear as his own witness at a later stage.]"

20.

[A new Rule 19 shall be added in Order XVIII after Rule 18 in the First Schedule of the Code as under:-"19. Power to get statements recorded on commission. - Notwithstanding anything contained in these rules, the Court may, instead of examining witnesses in open Court, direct that their statements be recorded on commission under Rule 4-A of Order XXVI."] Order XX[21. In Order XX, the existing Rule 3 shall be renumbered as sub-rule (1) of that rule, and after sub-rule (1) as so re-numbered, the following sub-rules shall be inserted:-"(2) Where the judgment is pronounced by dictation to shorthand writer in open court the transcript of the judgment so pronounced shall, after such revision as may be deemed necessary, be signed by the Judge and shall bear the date of its pronouncement.(3)In cases where judgment is not written by the Judge in his own hand, and dictated and taken down verbatim by another person, each page of the judgment shall be initialled by the Judge."] [Vide Notification No. 8/S.R.O., dated 23-12-1964 - Rajasthan Government Gazette IV-C, dated 11-3-1965, w.e.f. 11-3-1965.] Order XXI

22.

In Order XXI, Rule 43,-(a)the existing Rule 43 shall be re-numbered as sub-rule (1) of that rule, and in sub-rule (1) as so re-numbered, the following proviso shall be further inserted:-"Provided further that, when the property attached consists of live-stock, agricultural implements, or other articles which cannot conveniently be removed and the Attaching Officer does not act under the first proviso to this rule, he may, at the instance of the judgment-debtor, the decree holder or any person claiming to be interested in such property, leave it in the village or at the place where it has been attached-(a)in the charge of the person at whose instance the property is retained in such village or place, if such person enters into a bond in Form No. 15-A of Appendix E to this Schedule with one or more sufficient sureties for its production when called for; or(b)in the charge of an officer of the court, if a suitable place for its safe custody be provided, and the remuneration of the officer for a period of 15 days at such rate as may from time to time be fixed by the High Court, be paid in advance; or(c)in the charge of a village Patwari or such other respectable person as will undertake to keep such property subject to the orders of the Court, if such person enters into a bond in Form No. 15-B of Appendix E to this Schedule, with one or more sureties for its production".(b)after sub-rule

(1) as so renumbered, the following sub-rules shall be inserted -"(2) Whenever an attachment made under the provisions of this rule cases for any of the reasons specified in Rules 55, 57 or 60 of this order, the court may order the restitution of the attached property to the person in whose possession it was before attachment.(3)When property is made over to a custodian under paragraph (a) or (c) of the second proviso to sub-rule (1), the schedule of property annexed to the bond shall be drawn up by the Attaching Officer in triplicate, and shall be dated and signed by-(a)the custodian and his surety;(b)the officer or the Court who made the attachment;(c)the person whose property is attached and made over; and(d)two respectable witnesses.One copy shall be transmitted to the Court by the Attaching Officer and placed on the record of the proceedings under which the attachment has been ordered, one copy shall be made over to the person whose property is attached and one copy shall be made over to the custodian."]Order XXVI

23.

[A new Rule 4-A shall be added in Order XXVI after Rule 4 in the First Schedule of the Code as under:-"4-A. Commission for examination of any person resident within Court's local limit. - (1) Notwithstanding anything contained in these rules, any Court may, in the interests of justice or for the expeditious disposal of the case or for any other reason, issue commission in any suit for the examination, on interrogatories or otherwise, of any person resident within the local limits of its jurisdiction, and the evidence so recorded shall be read in evidence.(2)The provisions of sub-rule (1) shall apply to proceedings in execution of a decree or order.]Order XXVII

24.

[The existing Rule 4 of Order XXVII of the First Schedule of the Code of Civil Procedure shall be substituted by the following new Rule 4: -"4. The Government pleader in any court or an officer appointed for the purpose by the Government shall be the agent of the Government for the purpose of receiving processes against the Government, issued by such court."]Order XXXIII[25. The following amendments shall be made in Rule 15 of Order XXXIII:-(a)Rule 15 shall be renumbered as Rule 15 (1).(b)The following shall be added as Rule 15 (2)-"[15(2) Nothing in sub-rule (1) shall prevent the Court while rejecting an application under Rule 5 or refusing an application under Rule 7 from granting time to the applicant to pay the requisite court fee within a time to be fixed by the Court; and upon such payment, the suit shall be deemed to have been instituted on the date on which the application was presented.]"Order XLI[26. In Order XLI(a)[Amendment of Rule I, Order XLI.-The following proviso shall be added to Rule 1 of Order XLI of the Code -"Provided that when the decree appealed from is a final decree in a partition suit, the appellate court may dispense with the production of the copy of the decree if the appellant files a certified copy of the judgment appealed against],(b)for Rule 23, the following rule shall be substituted, namely:-"(23) Remand of case by Appellate Court.-Where the Court from whose decree an appeal is preferred has disposed of the suit on a preliminary point and the decree is reversed in appeal, or where the appellate Court, while reversing or setting aside the decree under appeal, considers it necessary in the interests of justice to remand the case, it may be order remand the case and may further direct what issue or issues shall be tried in the case so remanded, and shall send a copy of its judgment and order to the Court from whose decree the appeal is preferred, with direction to re-admit the suit under its

original number in the register of civil suits, and proceed to determine the suit; and the evidence, (if any) recorded during the trial shall, subject to all just exceptions, be evidence during the trial after remand".(c)the existing Rule 31 shall be re-numbered as sub-rule (1) of that rule, and after sub-rule (1) as so re-numbered, the following sub-rules shall be inserted :-"(2) Where the judgment is pronounced by dictation to a shorthand writer in open court, the transcript of the judgment so pronounced shall after such revision as may be deemed necessary, be signed by the Judge and shall bear the date of its pronouncement.(3)In cases where a judgment is not written by the Judge in his own hand, but dictated and taken down verbatim by another person, each page of the judgment shall be initialled by him."]Order XLII[27. Rule 1 of Order XLII of the Civil Procedure Code shall be amended as follows:-"1. Procedure.-The rules of Order XLI shall apply so far as may be, to appeals from appellate decrees, subject to the following proviso :-Every memorandum of appeal from an appellate decree shall be accompanied by a copy of the decree appealed from and unless the Court sees fit to dispense with any of all or them :- (1)copy of the judgment on which the said decree is founded;(2)a copy of the judgment of the Court of first instance; and(3)a copy of the finding of the Civil or the Revenue Court, as the case may be, where an issue is remitted to such Court for decision."]Order XLIV[28. The following shall be added as Rule 1-A in Order XLIV :-"1-A. Where an application is rejected under Rule 1, the Court may while rejecting the application allow the applicant to pay the requisite court fee within a time to be fixed by it; and upon such payment the memorandum of appeal in respect of which such fee is payable shall have the same force and effect as if such fee had been paid in the first instance."][29. In Appendix E, after Form No. 15, the following Forms shall be inserted, namely:-] [Vide Notification No. 8/S.R.O. dated 23-12-1964, Rajasthan Government Gazette IV-C, dated 11-3-1965, w.e.f. 11-3-1965]Appendix EForm No. 15-A"Bond for Safe Custody of Mobile Property attached and Left in Charge of Person Interested and Sureties.(Order XXI, Rule 43)In the Court of.....atCivil Suit No. of.....A.B. of.....AgainstC.D. of.....Know all men by these presents that we, I.J. of etc., and K.L. of..... etc., and M.N..... etc., are jointly and severally bound to the Judge of the Court in Rupees.....to be paid to the said Judge for which payment to be made we bind ourselves, and each of us, in the whole, our and each of our heirs, executors and administrators, jointly and severally, by these presents.Dated this.....day of 20.....And whereas the movable property specified in the Schedule here unto annexed has been attached under a warrant from the said court, dated the..... day of20..... in execution of a decree in favour of in suit No of 20 on the file of.....and the property has been left in the charge of the said I.J.Now the condition of this obligation is that, if the above bounden I.J. shall duly account for and produce when required before the said Court all and every the property aforesaid and shall obey any further order of the Court in respect thereof, then this obligation shall be void; otherwise it shall remain in full force.I.J.K.L.M.N.Signed and delivered by the above bounden.....in the presence of "Form No. 15-B"Bond for Safe Custody of Movable Property Attached and Left in Charge of any Person Interested and Sureties.(Order XXI, Rule 43)In the Court of..... at..... Civil Suit No. of.....A.B. of.....AgainstC.D. of.....Know all men by these presents that we, I.J. of.....etc., and K.L. of.....etc., and M.N.....etc., are jointly and severally bound to the Judge of the Court.....in Rupees.....to be paid to the said Judge for which payment to be made we bind ourselves, and each of us, in the whole, our and each of our heirs, executors and administrators, jointly and severally, by these presents.Dated this.....day of20.....And

whereas the movable property specified in the Schedule here unto annexed has been attached under a warrant from the said court, dated theday of.....20.....in execution of a decree in favour of..... in suit No of 20 on the file of..... and the said property has been left in the charge of the said I.J. Now the condition of this obligation is that, if the above bounden I.J. shall duly account for and produce when required before the said Court all and every the property aforesaid and shall obey any further order of the Court in respect thereof, then this obligation shall be void; otherwise it shall remain in full force and be enforceable against the above bounden I.J. in accordance with the procedure laid down in Section 145, Civil Procedure Code, as if the aforesaid I.J. were a surety for the restoration of property taken in execution of a decree. I.J.K.L.M.N. Signed and delivered by the above bounden.....in the presence of.....[Vide Notification No. 33/S.R.O. dated 21-7-1954, R.G.G, Ordinary IV-C, dated 14-8-1954, Page 272, w.e.f. 14-8-1954.][Vide Notification No. 13/S.R.O, dated 1-6-1956, Rajasthan Government Gazette IV-C dated 30-6-1956 w.e.f. 30-6-1956.][Vide Notification No. 8/S.R.O. dated 23-12-1964-R.G.G, Part IV-C dated 11-3- 1965, w.e.f. 11-3-1965.][Vide Notification No. 33/S.R.O.. dated 12-7-1954-Rajasthan Government Gazette, Ordinary Part IV-C dated 14-8-1954, Page 272, w.e.f. 14-8-1954][Substituted vide Notification No. 11/SRO/97, dated 27.9.97-Rajasthan Gazette Ordinary, Part I-B, dated 9.10.97, page 63. = 1998 RSCS/Part II/page 514/H. 477][Added by Notification No. 3/S.R.O. dated 29-11-1973 vide S.O. 119-Rajasthan Gazette, Extra-Ordinary, Part IV-C, dated 1-12-1973 at page 259-260.][Added by Notification No. 3/S.R.O., dated 29-11-1973, vide S.O. 119 - Rajasthan Gazette, Extra-Ordinary, Part IV-C, dated 1-12-1973 at page 259-260.][Vide Notification No. 10/S.R.O., dated 29-6-1957 - Rajasthan Government Gazette, Ordinary, Part IV-C, dated 25-7-1957, w.e.f. 25-7-1957.][Added by the Amending Notification No. 4/S.R.O., dated 6-10-1970 - Rajasthan Gazette, Ordinary, Part IV-C (II), dated 19-10-1970, Page 51.]