

The Calcutta Amendment of the Code of Civil Procedure Rules, 2006

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Rule

THE-CALCUTTA-AMENDMENT-OF-THE-CODE-OF-CIVIL-PROCEDURE of 2006

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The Calcutta Amendment of the Code of Civil Procedure Rules, 2006 Published vide Notification No. 4681-G, 6th December, 2006. High Court, Calcutta Appellate Side Notification No. 4681-G, 6th December, 2006. - In exercise of the power conferred under section 122 of the Code of Civil Procedure, the High Court, Calcutta, hereby frames the following Rules, namely -

1.

(a) These rules may be called the Calcutta Amendment of the Code of Civil Procedure Rules, 2006. (b) They shall apply to all Civil Courts throughout the territories in relation to which, the High Court, Calcutta, exercises its jurisdiction. (c) They shall come into force on the date of their publication in the Official Gazette.

2.

Insert the following Rule 4A in Order XVIII of the Code of Civil Procedure : "Panel of Commissioners in all Courts within the District (1) The District Judge shall prepare a panel of Commissioners for all the Courts within the District in consultation with the senior-most Civil Judge and such Other Judge of each sub-division he thinks fit. There shall be separate panels of such Commissioners for each sub-division of the District from the lawyers having minimum practice of three years. After such selection, the empanelled Commissioners will be given training on the relevant provisions of the Code of Civil Procedure and the Evidence Act under the supervision of the District Judge or such other Civil Judge of the sub-division, as he directs, for a short period. (2) All such Commissions will

be held in the Court premises after the usual Court-hours or on any holiday according to the convenience of the Court and the Commissioner and after each day's sitting, the Commissioner shall hand over all the documents and materials to the officer of the Court specially assigned with such duty to take charge of such documents and materials to be preserved in safe custody and those will be again handed over to the Commissioner on the next day before the start of the Commission.(3)The Commissioner shall maintain a day-to-day order-sheet regarding the progress of the case indicating -(i)the names of the witnesses cross-examined or re-examined and objections, if any, raised during their examination and how those objections were disposed of;(ii)record of the documents or materials exhibited;(iii)demeanour of any witness, when considered necessary, after recording objection, if any, raised by any of the parties.(4)If a party calling a witness wants to cross-examine his own witness, the Commissioner shall record such fact and refer the matter to the Court for its decision on the point."

3.

(a)Insert the following 2nd Proviso to Order VIII Rule 1 of the Code of Civil Procedure : "Provided further that the Court can in exceptional cases extend the time beyond ninety days from the date of service of summons if the defendant proves to the satisfaction of the Court that due to unforeseen circumstances he was prevented from filing the written statement within the said time."(b)Insert the following 3rd Proviso to Order VIII Rule 1 of the Code of Civil Procedure : "Provided further that the Court should in no case extend such time beyond one hundred twenty days from the service of summons unless it is proved to the satisfaction of the Court that the defendant was prevented from filing the written statement earlier due to the circumstances beyond his control."

4.

Insert the following Rule 9B in the Order V of the Code of Civil Procedure : "In cases of service of summons under Rule 9A of this order or through courier-agency, the plaintiff and the person serving shall along with the return file an affidavit giving details about the place and manner of service and the persons present at the time of such service:Provided further that if any part of such affidavit is found to be false or fabricated, the deponent can be summarily tried and punished for perjury and the courier-agency may be blacklisted for the purpose of effecting service of summons in that Court:Provided further that if such affidavit is found to be false and fabricated subsequently in any proceedings for setting aside ex parte decree passed on the basis of such affidavit, the Court, arriving at the conclusion that such affidavit was a false one, including the Appellate or the Revisional Court, can blacklist the courier-agency for the purpose of service of summons in such Court and can also inflict punishment on the person affirming such false affidavit in a summary manner."

5.

Insert the following 2nd Proviso to Rule 1 (1) of the Order XVII of the Code of Civil Procedure: "Provided further that in the circumstances which are proved to be beyond the control of a party, the Court can grant adjournment for such number of times as the interest of justice will

demand."

6.

Delete Order XXA Rule 2 of the Code of Civil Procedure and substitute the following Rule 2 in its place. (a) The award of costs will be in the discretion of the Court. While exercising such discretion the Court shall take into consideration the actual reasonable amount spent by the successful party in getting a just relief or opposing a frivolous claim including the value of time spent by him due to unjust opposition by the other side besides the amount of Court fees, lawyer's fees and the reasonable expenses incurred by such party towards transportation and lodging of such party and his witnesses, if any. (b) It will be the duty of the Court to quantify such amount while disposing of the suit not only in favour of the successful party but also to specify the amount of costs the unsuccessful party has incurred so that if the decree passed by the Trial Court is reversed in appeal and the Appellate Court intends to grant costs in favour of the appellant it will be convenient for the Appellate Court to assess the amount of costs in his favour: Provided further that the Court will also be free to award costs in favour of a successful party while disposing of a contested interlocutory application bearing in mind the aforesaid principles but in such a case it is not required to mention the amount of probable costs incurred by the unsuccessful party unless such interlocutory order is an appealable one."