

Examination of parties.

44. (1) The parties may at this stage of the proceedings be examined orally by the Judge of the Primary Court with a view to-

- (i) ascertaining the points at issue between them and of dispensing with any unnecessary evidence, and
- (ii) inducing the parties to an amicable settlement, removing the cause of disagreement between them and conciliating them.

(2) If every lawful endeavour to conciliate the parties had failed the court shall fix a date for the defendant to file his answer. The answer shall be filed, *mutatis mutandis*, in the manner set out in section 38.

accord with the pleadings and the court may allow an adjournment if necessary to the adverse party in consequence of new questions being raised in the issues but an amendment of pleadings shall not be allowed.

50. (1) The trial shall be held in the manner prescribed in the Civil Procedure Code for trials in regular actions in a District Court.

(2) The provisions of the Civil Procedure Code relating to judgments and decrees and the execution of decrees shall, *mutatis mutandis*, apply to judgments and decrees of a Primary Court.

Procedure at trial.

Of the claim in reconvention.

45. If the defendant pleads a claim in reconvention with his answer, the plaintiff shall be called upon to admit or deny the same. If he denies the claim in reconvention, the plaintiff shall be required forthwith, or at such further time as the court shall fix, to plead thereto, and the provisions of section 38 shall, so far as applicable, *mutatis mutandis*, apply to the plaintiff's reply to the defendant's claim in reconvention :

Of the reply thereto.

Provided that the plaintiff shall not set out in his reply new matter amounting to a new cause of action if he could have pleaded the same in his original plaint.

51. Where in any proceeding before any Primary Court any defence or claim in reconvention of the defendant involves matter beyond the jurisdiction of the court, such defence or claim in reconvention shall not affect the competence or duty of the court to dispose of the matter in controversy so far as relates to the demand of the plaintiff and the defence thereto, but any relief exceeding that which the court has jurisdiction to grant shall not be given to the defendant upon any such claim in reconvention :

Claim in reconvention.

Provided always that in such case it shall be lawful for the Court of Appeal or any Judge thereof, if it shall be thought fit, on the application of any party to the proceeding, to direct that the action be transferred from the court in which it shall have been instituted to the District Court having jurisdiction over the whole matter in controversy; and in such case the Judge of the Primary Court shall transmit the record to the District Court specified in the order and the proceeding shall be continued and prosecuted in the District Court as if it had been originally commenced therein.

Fixing the case for trial.

46. After the answer is filed, or, if the answer discloses a claim in reconvention, after the plaintiff's reply, if any, thereto is filed, the Judge of the Primary Court shall fix the case for trial.

Immaterial variance to be disregarded.

47. A variance between an allegation in a pleading and the proof shall be disregarded as immaterial unless such proof discloses a new cause of action, or the court is satisfied that the adverse party has been misled thereby to his prejudice.

Legal representation.

48. Every party to an action or proceeding shall be entitled to legal representation.

52. (1) The Primary Court shall have jurisdiction to summon and examine all witnesses touching the causes being tried or heard by it and if necessary to issue warrants for the apprehension and production before it of any party or witness and to deal with them according to law.

Power to summon witnesses and issue warrants.

Framing of issues.

49. The court shall at the trial frame the issues on which the right decision of the case appears to depend after questioning the parties and ascertaining the matters on which they are at variance- Issues need not strictly

And also jurisdiction to order any party or witness or other person to produce or cause to be produced any document or thing before it provided there is no bar or privilege under