

Order IX-A CPC. Case Management and Scheduling Conference(s)

- (1) The court at any time during the proceedings of a civil suit may call for a Case Management & Scheduling Conference, and in so doing, the court shall order the parties and the attorneys of the parties and the unrepresented party(ies) to appear in the court for one or more Case Management and Scheduling Conference(s) for the following purposes:
- (i) Expeditious disposal of the cases.
 - (ii) Establishing an early and continuing control of the court over the case, so that it cannot be protracted because of lack of management.
 - (iii) Discouraging wasteful pre-trial activities.
 - (iv) Improving the quality of trial through more thorough preparation of the case by the parties and their attorneys.
 - (v) Encouraging the parties to cooperate with each other in conducting the court proceedings.
 - (vi) Fixing time tables or otherwise controlling progress of the case.
 - (vii). Facilitating settlements and encouraging parties to use ADR procedures.
 - (viii). Giving directions to ensure that the trial of a case proceeds quickly and efficiently.
 - (ix). Dealing with as many aspects of the case as is possible on the same occasion.
 - (x). For facilitation of the parties, if so required, seeking consultation of the parties or their attorneys in the Case Management and Scheduling Conference(s) through telephone, mail or other technologies.
- (2) At any conference under this rule, the court may take appropriate action(s) and pass a scheduling order with respect to:
- (i) The formulation and simplification of issues, including elimination of frivolous claims and defenses
 - (ii) The necessity or desirability of amendments in the pleadings."
 - (iii) The necessity or desirability of joining other parties.
 - (iv) The necessity or desirability of any local inspection through commission,
 - (v) Obtaining proposed exhibits from the parties and scrutinizing them within the mandate of Order XIII, and identifying witnesses.
 - (vi) Determining the appropriateness and timing of Summary Judgment under Order XV.
 - (vii) Control of Discovery through Discovery Management
 - (viii) Disposition of pending motions through Motion Management.
 - (ix) Conducting Trial Management for a speedy trial.

Comment [OS1]: MODIFIED: The court shall under its own supervision, in each and every case, after receiving a plaint, petition or appeal, as the case may and having regard to the provisions of the Code and these rules, start case management and scheduling conference.

Comment [OS2]: DELETED

Comment [OS3]: DELETED

Comment [OS4]: MODIFIED: disposal of pending miscellaneous applications

(x) Facilitating the just, speedy and inexpensive disposal of cases.

(3) Seven days prior to conducting any Case Management Conference for scheduling motions, discovery, settlement or trial, the court shall serve the agenda items of the conference to the parties or their counsels through prescribed proformas-A, B, C & D.

Comment [OS5]: MODIFIED: Provided that in case the Court does not call for such conference, it shall be bound to record reasons for not doing so.

(4). **Motion Management and Scheduling Order(s).**

Comment [OS6]: MODIFIED: Management and disposal of miscellaneous applications

(A). The court after consultation with the attorneys of the parties and unrepresented parties shall fix the following three dates:

Comment [OS7]: ADDED: (1) The Court shall manage the miscellaneous applications, arising out of the suits or proceedings, in the following manner:

(i) A date by which the parties shall file any of the applications (i.e. under order 6 rule 17 CPC, Order 1 rule 10 CPC, order 7 rule 11 CPC, order 26 rule 9 CPC, or any other applications) required for completion of pleadings, and shall provide copies of such application(s) to the other party(ies).

Comment [OS8]: DELETED

(ii) Another date by which the parties shall file written replies to such application(s), and shall give copies of written reply(ies) to the opposite parties.

(iii) A third date by which unless the hearing is adjourned, the application(s) shall be disposed of.

(B) No opportunity shall be provided to any party for making any such application(s) if he/she opts not to file such application(s) or reply thereto after exhausting the opportunity provided under rule 4(A).

Comment [OS9]: After this clause, following proviso has been added: Provided that the whole proceedings, under this clause, shall be completed within a period of sixty (60) days, commencing from the date of attendance of parties.

(C) If it is not convenient to decide all the applications collectively, the court may decide them separately by making a fixed schedule for their disposal.

Comment [OS10]: After this clause, following proviso has been added: (c) any order made under this rule shall not be applicable or revisable except in an appeal or revision, as the case may be, in the main case; and

(5) **Discovery Management and Scheduling Order(s):** After the completion of pleadings, in accordance with the nature of the litigation, the court shall fix a timetable(Schedule) for:

Comment [OS11]: Following words have been added: subject to the provisions of clause (a)

(A) Developing with the consultation of the attorneys of the parties and unrepresented parties a factual and legal statement of controversy.

Comment [OS12]: After this, following words have been added: which shall not exceed thirty (30) days, in any case

(B) Employing all or any modes of "litigant conducted investigation" provided in order 10, 11 and 12 CPC.

Comment [OS13]: MODIFIED: or their legal counsels

(C) Requiring parties and their counsels to submit their proposed exhibits along with Proforma-E, and conducting their scrutiny in accordance with the mandate of Order 13 CPC.

- (6) **Trial Management and Scheduling Order(s):** After framing of the issues, if the case is fixed for trial, then the court with the consultation of attorneys of the parties and any unrepresented party(ies), shall within seven days, establish a time table (Schedule)for:

(A). Presenting and exchanging the list of witnesses, which the parties intend to produce in the court either to give evidence or produce documents, on the prescribed Proformas- F1 & F2.

(B). Procuring the certificates of readiness from the parties to produce their witnesses and documentary evidence in the court on the prescribed Proforma-G.

(C). Proceeding with the trial in accordance with the schedule, within which, the parties shall be bound to present their evidence and cross examine each other's witnesses

- (7) **Settlement Conference & Scheduling Order:** At any stage during the proceedings of a case, the court with the consent of the parties, may employ any of the modes of Alternate Dispute Resolution for expeditious disposal of the case.

- (8) **Imposing fee and cost:** If a party or his attorney fails to appear at a Case Management and Scheduling Conference, or is substantially unprepared to participate, or does not participate in good faith in the conference, or fails to obey a case management and scheduling order, the court in addition to any other sanction, must order the party to pay reasonable expenses, unless such non compliance was substantially justified or other circumstances made an award of expenses unjust.

- (9) **Modifying a Schedule:** A court, with the consultation of the attorneys of the parties and any unrepresented party, may modify a schedule, only if a good cause is shown. After such modification in the schedule/time table, the court shall issue a fresh schedule/time table in consultation with the attorneys of the parties and any unrepresented party. Issuing schedules/time tables with the consultation of the attorneys is a mandatory feature, and no party or his attorney can opt to exclude itself from such consultation,

- (10) **Piloting Clause:** This amendment in the Order 9-A CPC is a pilot legislation, which will be applicable in pilot courts notified by the Hon'ble Chief Justice, Islamabad High Court, Islamabad for a stipulated period. After promulgation of these amendments, working of the pilot courts and pilot procedures will be over sighted by the Rule Committee of the Hon'ble High Court for the stipulated period, following which, the Rule Committee of the Hon'ble Islamabad High Court shall decide about the applicability of these rules to all the courts of Islamabad, and may also consider further necessary amendments in the rules. On the expiry of piloting period, this pilot clause shall cease to exist.

Comment [OS14]: ADDED: Before or after

Comment [OS15]: Before this, following words have been added: if the case is not summarily decided and,

Comment [OS16]: MODIFIED: or their counsels

Comment [OS17]: ADDED: as specified in Fifth Schedule;

Comment [OS18]: ADDED: as specified in Fifth Schedule:

Comment [OS19]: ADDED: All efforts shall be made by the court to hold *de die in diem* trials;

Comment [OS20]: ADDED: Provided that the Court shall conduct the trial within a period of one (01) year

Comment [OS21]: MODIFIED: settlement of disputes

Comment [OS22]: MODIFIED: Penalty for default in case management

Comment [OS23]: After this following words have been added: or impose a fine. All orders under this rule shall be made justly and fairly, notwithstanding anything contained in any rule or order for the time being in force. When the non-attendance of a party or his counsel is justified, the court may adjourn the matter and fix a final date for the matter.

Comment [OS24]: ADDED: (7) The provisions of this Order shall mutatis mutandis apply to all the pending cases before any court.

Comment [OS25]: DELETED

Comment [OS26]: DELETED

Order XV-A

SUMMARY JUDGMENT

1. **Application for summary judgment.** A party may move an application for summary judgment identifying the whole claim or defense, or each claim or defense on which summary judgment is sought, or the court may grant such summary judgment on its own initiative, if:--

Comment [OS27]: MODIFIED: Either party

(a) it is satisfied that (i) the respondent has no real prospect of succeeding on such claim or claims or successfully defending such claim or claims, as the case may be, and (ii) there is no genuine dispute as to any material fact requiring a trial and a party is entitled to judgment as a matter of law; or

(b) the parties agree to have all or part of the claim determined by a summary judgment and the court is satisfied that it is appropriate to grant summary judgment.

2. **Time to file an application.** Unless the court otherwise directs to prevent injustice, a party may file an application for summary judgment or the court may consider the grant of summary judgment on its own initiative at any time after the close of period allowed to the parties for filing list of documents under Order XIII Rule 1, until 15 days after the development of factual and legal statement of controversy by the court under Order (IX-A Rule 2).

Comment [OS28]: Before this following new words have added: Subject to the provisions of Order IX-A,

Comment [OS29]: DELETED

3. **Evidence for purposes of summary judgment hearing.**--An applicant asserting that a fact cannot be or is genuinely disputed must support the assertion by:
 - (a) citing particular parts of any documentary evidence filed with the court along with the pleadings, or
 - (b) showing that the documentary evidence cited does not establish the absence or presence of a genuine dispute or that the respondent cannot produce admissible evidence to support the fact:

Provided, that documentary evidence will be construed in a manner most favorable to the respondent and any doubts regarding the existence of a genuine issue of material fact will be resolved against the applicant.

4. **Procedure.** (1) When an application for summary judgment is filed, the respondent shall be given at least 14 days notice of the date fixed for the hearing along with a copy of the application.

(2) The respondent may file a response to the application for summary judgment, and

serve copies on every other party to the application at least 7 days before the summary judgment hearing and the applicant may file a rejoinder to the response, and serve copies on every other party to the application at least 3 days before the summary judgment hearing.

(3) Where the summary judgment hearing is fixed by the court on its own initiative, any party to the proceedings may file an affidavit citing particular parts of the documentary evidence filed with the court to support or oppose the notice issued by the court to consider grant of summary judgment and serve copies of such affidavit on every other party to the proceedings at least 7 days before the summary judgment hearing, and any party may file a response to such affidavit and serve copies on every other party to the proceedings at least 3 days before the summary judgment hearing.

5. Orders the court may pass. After giving notice and allowing the stipulated time to respond, the court may:--

- (a) grant summary judgment along with costs;
- (b) dismiss the application along with costs;
- (c) grant partial relief in relation to one or more claims or defenses identified in the application that shall be deemed to be established, unless the trial judge orders otherwise to prevent injustice; or
- (d) issue any other appropriate order with directions about the management of the case.

6. Piloting Clause. This amendment in the Order XV-A CPC is a pilot legislation, which will be applicable in pilot courts notified by the Hon'ble Chief Justice, Islamabad High Court, Islamabad for a stipulated period. After promulgation of these amendments, working of the pilot courts and pilot procedures will be over sighted by the Rule Committee of the Hon'ble High Court for the stipulated period, following which, the Rule Committee of the Hon'ble Islamabad High Court shall decide about the applicability of these rules to all the courts of Islamabad, and may also consider further necessary amendments in the rules. On the expiry of piloting period, this pilot clause shall cease to exist.

Comment [OS30]: DELETED