



ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರ

ಅಧಿಕೃತವಾಗಿ ಪ್ರಕಟಿಸಲಾದುದು

ವಿಶೇಷ ಪತ್ರಿಕೆ

ಭಾಗ - IV-A

ಬೆಂಗಳೂರು, ಶುಕ್ರವಾರ, ಡಿಸೆಂಬರ್ ೨೯, ೨೦೦೬ (ಪುಷ್ಯ ೮, ಶಕ ವರ್ಷ ೧೯೨೮)

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Law, Justice and Human Rights Secretariat

Notification

No. LAW 294 LAC 2005, Bangalore, Dated 29th December, 2006.

Whereas the draft of the following rules which the High Court of Karnataka proposed to make was published as required by sub-section (1) of Section 122 of the Code of Civil Procedure, 1908 (Central Act 5 of 1908) in Notification No. LAW 294 LAC 2005 dated 18.3.2006 in Part IVA of the Karnataka Gazette dated 18.3.2006 inviting objections or suggestions from the persons likely to be affected thereby and notice was given that the said draft rules will be taken into consideration on or after thirty days from the date of its publication in the Official Gazette.

And whereas, the said copy of the Gazette Notification was made available to the public on 18.3.2006.

And whereas, no objections or suggestions have been received to the said draft rules by the High Court of Karnataka.

Now, therefore, in exercise of the powers conferred by Section 89 and Section 122 read with Section 126 of the Code of Civil Procedure, 1908 (Central Act 5 of 1908) and with prior approval of the State Government, the High Court of Karnataka hereby makes the following rules, namely:-

1. Title, application and commencement.- (1) These rules may be called the **Karnataka (Case Flow management in Subordinate Courts) Rules, 2005.**

(2) These rules shall apply to all suits and Civil Proceedings before the Subordinate Civil Courts and Tribunals under the control of High Court.

(3) These rules shall come into force from the date of their publication in the Official Gazette.

2. Definitions - In these rules, unless the context otherwise requires-

(a) "Ministerial Officer" means the Assistant Registrar of City Civil Court and Small Causes Court, Chief Administrative Officer, Sheristedar of other Civil Courts.

(b) "Order" means Orders in the First Schedule to the Code of Civil Procedure.

(c) "Section" means section of the Code of Civil Procedure.

3. Categorisation of suits and other proceedings.- (1) The Presiding Officer of the Court shall categorise the suits and proceedings in his Court into Track-I, Track-II, Track-III and Track-IV.

(a) **Track-I:** (1) Maintenance, (2) Child Custody, (3) Appointment of guardian and wards, (4) Visiting rights, (5) Letters of Administration, (6) Succession Certificate, (7) Recovery of Rent, (8) Permanent injunction.

(b) **Track-II:** (1) Execution cases, (2) Divorce, (3) Ejectment.

(c) **Track-III:** (1) Partition, (2) Declaration, (3) specific performance, (4) Possession, (5) Mandatory Injunction, (6) Appeals, (7) Damages, (8) Easements, (9) Trade marks, Copy Rights, Patents, (10) Intellectual Property Rights.

(d) **Track-IV:** Such other matters not included in Track-I to III shall be posted in Track-IV.

(2) The Presiding Officer shall endeavor to dispose of the cases in Track-I within 9 months, the cases in Track-II within 12 months and the cases in Track-III and IV within 24 months from the date of appearance or deemed appearance of defendant-respondent.

NOTE: The time prescribed for disposal of the Suit/Proceeding is the maximum time limit.

(3) The Presiding Officer at the request of the parties and for valid reason can dispose of the case early, irrespective of the Track norms prescribed.

4. Summons.- (1) The Summons/Notices issued in suit or proceeding shall indicate maximum of 30 days for filing written statement/objection from the date of service.

(2) (a) The plaintiff/petitioner shall file copy of the plaint, Interlocutory application, list of documents alongwith the plaint for service on the defendant-respondent.

(b) The Plaintiff/petitioner shall furnish the correct postal address of the parties in the pleadings as required under rule 14A of Order VI, in the absence of the same the office shall not take further steps until necessary compliance is made.

(3) (a) When the State or Union Government-Public Servants or State or Union Government in official capacity are parties to the suit or proceeding, in such a case the summons or notice to be served on the Government Advocate.

(b) In respect of statutory bodies and Corporations owned or controlled by the Government, the summons or notice to be served on the authorised agents representing the said Institution.

(c) The summons or notice served on the Government Pleader or authorised agents as stated in the preceding provisions shall be deemed to be a valid service and no separate notice to the State or Union Government or public servant or statutory bodies or Corporations of the Government is necessary.

(4) The process for service shall be paid within seven days from the date of order, failing which, the case will be posted in List-I for dismissal for non-prosecution.

(5) The process if paid in time for service, the case to be posted not later than 15 days from the date of issuance of summons or notice, for appearance.

(6) The service of notice is issued to the plaintiff/petitioner under Order V rule 9(A), the report of the service shall be filed before the Court with necessary acknowledgment of service along with affidavit.

(7) Whenever notices/summons issued to defendant/respondent is reported as refused or non-availability of party for deliberate reasons, the Court shall order issuance of summons or notices through Court including substituted service simultaneously.

(8) When the service of summons/notice through courier is refused, the serving agent of the courier shall swear to an affidavit the fact of refusal. On consideration of such affidavit, the Court may place the defendant or the respondent ex-parte.

(9) The envelope of the Summons/Notice sent by Registered Post or Courier shall bear written or printed instructions to the server to deliver summons or notice to the party and in his absence, to any adult member of the family. The acknowledgement of service shall be submitted to the Court.

(10) The party lodging caveat under Section 148A, shall furnish in the petition, the registered address for service of summons or notice and the name and address of the Advocate on whom the copy of the summons/notice is to be served.

5. Calling of cases.- (1) The stages of the suit or proceeding shall be as follows:-

- (a) Steps for service of summons/Notice.
- (b) Appearance of the parties.
- (c) Filing of Written Statements, Objections.
- (d) Hearing of Interlocutory Application.
- (e) Reference to "Arbitration, mediation and Lok Adalaths.
- (f) Framing of issues (for suits).
- (g) Evidence:- Examination-in-chief by affidavit, Cross-examination and Re-examination.
- (h) Arguments.
- (i) Judgment.

(2) The Presiding Officer shall cause preparation of two cause-lists of the cases for the calling work every day.

(3) The case at the stage of hearing Interlocutory Applications, reference to arbitration or mediation or Lok Adalath, evidence including the examination-in-chief by affidavit, cross-examination of witness, arguments and judgment shall be listed in cause list No.1.

(4) The case at the stage of steps for service of summons/notice, appearance, filing of written statement or objections or rejoinder and framing of issues shall be listed in cause list No.II.

(5) The case at the stage of appearance and steps at the request of the Advocate or Party be posted in List-I for necessary orders for expeditious service of summons/notice.

(6) The cases listed in cause list No.I shall be called in Open Court by the Presiding Officer.

- (7) The Registrar and the Deputy Registrars of the city Civil and Small Causes Court, the authorised Ministerial Officer shall attend to the cases listed in cause list No.II.
- (8) The cases posted in List No.II shall be made available to the Advocates or Party for doing the needful during the working hours of the court.
- (9) The parties and the Advocates shall file vakalath, take steps and file written statement or objection or rejoinder before the Registrar, Deputy Registrar and the authorised ministerial officer as the case may be.
- (10) The Registrar or Deputy Registrar of the City Civil Court or Small Causes Court as the case may be can extend time for filing written statement for a maximum period of 90 days from the date of service of summons. Thereafter, the case shall be posted in List-I for necessary judicial orders.
- (11) Whenever the Advocate/Party fails to take steps or do the needful in the case posted in List-II and does not seek extension of time or whenever such extension is refused, the case shall be posted in List-I for necessary judicial orders.
- (12) The cases to be posted in List No. I for cross-examination and arguments shall not be more than 8 cases and 2 cases respective.
- (13) All the cases at the stage of evidence or arguments (keeping in view the instruction in the preceding sub-rule(14)), shall be posted in List-I for evidence or arguments on the basis of month-wise and year-wise seniority. Such list shall be displayed 30 days in advance on the Notice Board of the Court. However for exceptional reasons, the Court may change the date of the cases posted in List No.I for evidence or arguments.
- (14) The Party/advocate shall take the posting of the case for cross-examination or arguments in List No.I strictly and shall conduct evidence or submit arguments without seeking adjournment.

6. Procedure regarding Interlocutory application and interim order:- (1)
In a suit or proceeding, if no interim order is granted the application shall be posted for hearing in the List-I immediately on the appearance of the defendant/respondent.

(2) In a suit or proceeding, if ex-parte interim order is granted on an interlocutory application, the same shall be posted in List No.I for disposal on merits immediately after the appearance of the defendant/respondent.

(3) The interim ex-parte order granted shall not be communicated to the other side, the certified copy of the order shall not be issued until the party complies with the provisions of rule 3 of Order XXXIX.

(4) The Interlocutory Applications shall be disposed of within 30 days from the date of appearance of the other side.

(5) The Applications filed for interim orders in respect of cases in List No.I may be filed on the date of hearing or before the Ministerial Officer in advance after due notice to the other side.

(6) The Interlocutory Applications filed before the Ministerial Officer shall be posted in List-I for consideration by the Judge.

7. Reference of cases to mediation, conciliation and Lok Adalath.- (1)
The Presiding Officer after filing of written statement or objection if any, shall explore the possibility of a Settlement, and if there exist elements of a Settlement, then he shall proceed under Section 89 of the Code for reference to the Alternate Dispute Resolution Forum in the manner prescribed in the Karnataka (Alternate Dispute Resolution) Rules, 2005.

(2) Where a dispute has been so referred to for arbitration or conciliation or Lok Adalath or for judicial settlement, such disputes, are to be disposed of, in accordance with the provisions of the Arbitration and Conciliation Act, 1996 and the Legal Services Authority Act, 1987 as the case may be.

(3) When the dispute is referred for mediation and the mediator submits the terms of settlement entered into between the parties, which is reduced into writing in accordance with the Karnataka Civil Procedure (Mediation) Rules, 2005, the Court shall pass a judgment in terms of the settlement, if the terms of settlement are lawful.

(4) When the case is not settled either by way of conciliation or mediation or Lok Adalath or judicial settlement, and the matter is referred back to Court, the Court shall proceed with the disposal of the case on merits, in accordance with law.

8. Appointment of Commissioners for recording of evidence the procedures.- (1) The High Court shall select a panel of Advocates as Commissioners for recording evidence, for the Courts in Districts and Taluks.

(2) The Court shall appoint an Advocate on the panel, for recording evidence on Commission.

(3) The Court shall determine the remuneration of the Commissioner and the incidental charges.

(4) Until the panel of Commissioners is published by the High Court, the Court may appoint a Commissioner in accordance with provisions of Order XXVI.

(5) The Court may grant the request for recording of evidence on Commission in respect of cases listed in Track-II, III and IV and for special reasons in respect of cases listed in Track-I.

(6) The Court shall fix a time limit for completing the recording of evidence by the Commissioner.

(7) The Commissioner may take the case file for recording evidence. The Commissioner shall duly acknowledge the receipt of the case file.

(8) The Commissioner shall ensure safe custody of the case file and documents delivered to his custody. The office while delivering the document/s shall make photocopies of the document/s duly certified by the Presiding Officer to ensure that the documents delivered are intact at the time of re-delivery of the records.

(9) The duly certified photocopies of the documents may be used as Secondary Evidence.

9. Proceedings for perjury.- When the Judge while pronouncing the judgment expresses in the judgment that the party/witness has willfully given false evidence, after summary hearing of the party/witness, may levy fine, which shall not be less than Rs.1,000/-. In grave cases he may initiate prosecution for perjury.

10. Adjournment.- The Court may for valid reasons adjourn a case posted for cross-examination/arguments on payment of costs to the other side to compensate for the loss or inconvenience caused.

11. First appeals.- (1) A party may file a memorandum of appeal before the Appellate Court for obtaining interim orders and may also serve notice of filing in advance to the respondent/s or the Counsel appearing in the trial Court.

(2) The appellant filing memorandum of appeal seeking interim orders shall file along with the appeal, true copies of the documents marked in the suit, necessary for consideration for the disposal of the Interlocutory Application.

(3) The Interlocutory Application shall be disposed of within four weeks from the date of appearance of the other side.

(4) The procedure for calling work, grant of interim order applicable to suits and civil proceedings shall mutatis-mutandis apply to appeals.

By order and in the name of the Governor of Kamataka,

E. SHIVANANDA

Under Secretary to Government (Admn - 1)
Law, Justice & Human
Rights Department