

CHAPTER IV
Presentation of Complaint and Other Documents

1. Presentation at the counter—All complaints, petitions, applications and documents including application for leave to sue in *forma pauperis* shall be presented by the plaintiff, petitioner applicant, defendant or respondent in person or by his duly authorised agent or by an advocate duly appointed by him for the purpose, at the filing counter. All such documents filed in Court shall be accompanied by an index in duplicate containing their details. The amounts of Court-fee affixed or paid on any such document shall also be indicated in the index. Sufficient number of copies of the complaint, petition or application shall also be filed for service on the opposite party.

COMMENTS

Suit can be presented by a duly authorised agent or by an advocate duly authorised by him for the purpose. This authorisation, in the case of a company can be given only after a decision to institute suit is taken by the Board of Directors of the company. The Board of Directors may, in turn authorise a particular director, principal officer or the secretary to institute a suit. *M/s. Nibro Ltd. v. National Insurance Co.*, AIR 1991 Delhi 25.

2. Endorsement and scrutiny of documents—(a) The officer in charge of the filing-counter shall endorse the date of receipt on the complaint, petition, application or proceedings and also on the duplicate copy of the index and return the same to the party. He shall enter the particulars of all such documents in the registrar of daily filing and thereafter cause it to be sent to the office concerned for examination. If on scrutiny, the document is found to be defective, such document shall, after notice to the party filing the same, be placed before the Registrar. The Registrar may for sufficient cause return the said document for rectification or amendment to the party filing the same, and for this purpose may allow to the party concerned such reasonable time as he may consider necessary.

(b) Where the party fails to take any step for the removal of the defect within the time fixed for the same, the Registrar may, for reasons to be recorded in writing, decline to register the document.

(c) Any party aggrieved by any order made by the Registrar under this rule may, within fifteen days of the making of such order, appeal against it to the Judge in Chambers.

COMMENTS

In case a document is found to be defective, it shall, after notice to the party filing the same be placed before the Registrar. The Registrar may then for sufficient cause return the said document for rectification or amendment and for this purpose may allow the party concerned such reasonable time as he may consider necessary. If, however, a party fails to take any steps for the removal of the defects within the fixed time, the Registrar may decline to register the documents for reasons to be recorded in writing. *State Bank of India v. Amritsar Engineering Works*, (1990) 40 DLT463.

Application to bring legal representatives of deceased defendant on record must be accompanied with an affidavit. Rule 2(c) is mandatory, ILR (1973) H.P. 1314.

3. Service on the opposite party—(a) Where notice of an inter locutory application is issued by the Court, a copy of the application, the affidavit in support thereof (and if so ordered by the Court, of other documents filed therewith), if any, shall be served along with the notice on the other party.

(b) The aforesaid copies shall show the date of presentation of the original and the name of the advocate, if any, of such party.

4. Registration of proceedings admitted—On admission, plaints, petitions and applications shall be registered in the appropriate registers and their number entered thereof.

5. Ex-parte amendments—Amendments to pleading, which are made only for the purpose of rectifying some clerical errors may be made on an order of the Registrar without notice.

6. Attestation of amendments—The attestation of any amendment under Order II, Rules 6 and 7, Order VI, Rules 16 and 17. Order VII, Rule 11 and Order XXI, Rule 17 of the Code shall unless otherwise ordered by Court, be done by the Registrar.

The amendment of any plaint or other proceeding carried out under the order of the Court shall unless otherwise directed by the Court also be attested by the Registrar.

6-A. Notwithstanding anything contained in Order 5 Rules 10 and 20-A of the Code of Civil Procedure 1908 the Court may in the very first instance issue summons by registered post (acknowledgement due) in addition to the ordinary way.

7. Registers to be maintained—The following Registers shall be kept on the original Civil Side by such ministerial officer or officers as the Registrar may, subject to any order of the Chief Justice, direct:—

(i) Register of rejected plaints;

(ii) Register of Civil Suits;

(iii) Register of documents filed in Civil Suits;

(iv) Register of Miscellaneous applications;

(v) Register of Wills;

(vi) Register of decree received for execution from other Courts; and

(vii) Register of Execution Applications.

8. Arrangement of record in pending matters—The record of a regular suit shall be divided into the following four parts:—

- (i) Main file;
- (ii) Miscellaneous application file;
- (iii) Process file; and
- (iv) Execution file.

9. Contents of main file—The main file shall be kept in the following order:—

- (i) Diary;
- (ii) Order sheet;
- (iii) Complaint together with any schedule annexed thereto;
- (iv) Written statement;
- (v) Any other pleading;
- (vi) Memorandum of issue;
- (vii)(a) Oral evidence,
 - (b) Evidence taken on commission; and
 - (c) Documentary evidence.
- (viii) Application for reference to arbitration, the award of arbitrator petition of compromise and report of the Commissioner, and objections to the Commissioner's report, if any;
- (ix) Judgment and decree; and
- (x) Copy of the judgment and of the decree of the Appellate Court or Courts, if any.

10. Miscellaneous applications' file—In the miscellaneous applications' file there shall be kept all petitions, affidavits, and other documents not specifically included in any other file.

11. Process file— The process file shall contain—

- (i) The index;
- (ii) Powers of attorney;
- (iii) Summons and other processes and affidavits relating thereto;
- (iv) Applications for summoning witness;
- (v) Letters, etc., calling records etc;
- (vi) All other miscellaneous papers.

12. Execution file—The execution file shall contain:—

- (i) The diary;
- (ii) The execution application;
- (iii) The order sheet;
- (iv) All processes and other papers connected with such execution proceedings.’

13. Distribution to proper files—The splitting up of the record and the distribution of the papers into the proper files shall in all cases be done at the outset and shall be continued from time to time as and when they are received, papers in each file shall be paged separately.

14. One file in miscellaneous applications—For applications there may be only one file with a title page prefixed to it. Immediately after the title page shall be filed the diary, the miscellaneous application, the order sheet and then other document.

15. Diaries—Diaries shall be kept by the Reader in such form as may be prescribed. They shall be written legibly. The diary in the main file shall show a concise history of the suit or matters including the substance of the order passed on all interlocutory applications therein. The diary in execution proceedings shall contain a complete record of all proceedings in execution of a decree.

16. Order sheet—(a) The order sheet shall contain all orders passed by the Court at any hearing.

(b) All orders shall be in English and signed by the Judge.

(c) The order sheet shall also contain reference to the application, return, or other similar document with respect to which an order is made.

(d) Except in the case of such routine orders as “call for the record”, “put up with the record”, and orders made in chambers, orders shall not be written on applications, returns report and other similar documents.

17. Removal of record from Court house—No members of the establishment shall remove any official paper or record whatever, from the Court house without the special sanction of the Registrar.