

CHAPTER II
Exercise of Original Civil Jurisdiction

1. Jurisdiction to be exercised by a Judge/Single—Every suit coming before the Court in its Ordinary Original Civil Jurisdiction shall be tried and heard by a Single Judge.

2. Reference of two or more Judges—A Judge before whom any suit, application or other proceeding, interlocutory or otherwise, is pending may, if he thinks fit, refer it or any question of law, practice or procedure arising therein to the Chief Justice for constituting a Bench of two or more Judges to decide the same. If only a question has been referred, the Judge shall, after receipt of a copy of the judgment of the Bench so constituted, proceed to dispose of such suit, application or proceeding in conformity therewith.

¹**[3. Power of the Registrar**—The powers of the Court including the power to impose costs in relation to the following matters may be exercised by the registrar:

- (1) Admission of plaints and applications and issue of summons and notices;]
- (2) Applications to amend the plaint, petition or subsequent proceedings where the amendment sought is formal;
- (3) Applications for issuance of commissions to examine witness;
- (4) Attachment of property of absconding witness;
- (5) Inquiries directed by the Court as to the fitness of the persons to act as trustees and receivers;
- (6) Applications for leave of the Court to file a plaint when such leave is necessary;
- (7) Application under O.I. rule ²[8] for leave to sue or defend on behalf of or for the benefit of all having the same interest;
- (8) Application for the admission or appointment of a next friend or guardian *ad litem* of a minor or a person of unsound mind or new next friends or guardians *ad litem*;
- (9) Applications for fresh summons or notices and regarding services thereof;
- (10) Applications for fresh summons or notice and for short date summons and notices;
- (11) Applications for orders for substituted service of summons or notice;
- (12) Application for transmission of process for service to another Court;
- (13) Applications for permission to withdraw any suit or application by consent or where the other side has not appeared;
- (14) Applications for leave to file further or additional written statements;
- (15) Applications for return of documents under Order XIII, Rule 9(i) of the Code; and applications for return of exhibits;
- (16) Applications for orders for discovery and for orders concerning the admission, production and inspection of documents;
- (17) Applications for leave to deliver interrogatories;
- (18) Applications for orders for the transmission of a decree with the prescribed certificates, etc;
- (19) Application for the execution of a document or for the endorsement of negotiable instrument

1. Substituted vide Notification No. 81/DHC/Rules dated 15-3-1988.

2. Substituted for “8(i)”, vide Notification No. 81/DHC/Rules dated 15-3-1988.

under Order XXI, Rule 34 of the Code;

(20) Applications for examination of judgment-debtor as to his property under Order XXI, Rule 41 of the Code;

(21) Applications for discharge from custody for the non-payment of subsistence money;

(22) Applications falling under Section 52 of the Code;

(23) Applications for leave under Order XXI, Rule 50, sub-rule (2) of the Code except where liability is disputed;

(24) Applications for the issue of proclamations of sale under Rule 66, and for direction as to the publication thereof under Rule 67 of Order XXI of the Code;

³[(25) xxx xxx xxx]

(26) Applications for special directions to the Office concerned as to the service or execution of any process of the Court;

(27) Applications for orders for withdrawal of attachment or for return of a warrant;

(28) Application for orders for payment of money realised in execution or otherwise deposited in Court including uncontested applications to share the assess realised under Section 73 of the Code;

⁴[(29) To secure the attendance of witnesses and take proceedings against them for failure to comply with the summons as provided under Order XVI of the Code and to record evidence and decide objections as to questions in examination-in-chief, cross-examination and re-examination];

(30) Applications for extension of time under Order XXVII, Rule 7 of the Code, or by a party in default for further time to file written statement or affidavit of documents;

(31) Applications for statement of names, and disclosure of partners address and residence under Order XXX, Rules 1 and 2 of the Code;

(32) Applications for orders requiring a party to suit or matter to produce and leave with the Registrar any document not in the English language in his possession for the purpose of being officially translated;

(33) Applications for orders for the production of records or documents, or accounts filed in such records before any other Courts;

(34) Applications for the issue of a precept to another Court for the production of a record of such Court or of notice or summons to a Public Officer for the production of public records or registers;

(35) Applications for the taxation and delivery of bills of costs;

(36) Applications under Order XXII of the Code for bringing on record the Legal Representatives of a deceased party;

Provided that no order of substitution or revivor shall be made by the Registrar—

(i) where a question arises as to whether any person is or is not a legal representative of the

3. Deleted vide Notification No. 81/DHR/Rules dated 15-3-1988.

⁴. Substituted vide Notification No.277/Rules/DHC dated 18.8.2009

deceased party; or

(ii) where a question of setting aside the abatement of the cause is involved.

In such a case the Registrar shall after making an inquiry place the matter with his report and the findings before the Judge in Chambers;

⁵ [(38) Applications for enlargement or abridgment of time including applications to foreclose the right to file the written statements and replies or applications seeking extension of time for leading evidence and foreclosing the right to lead evidence];

COMMENTS

After framing of the issues the Court had allowed six weeks time to the parties to file their additional documents, if any. That order was, however, not complied with by the respondent. List of witnesses also was not filed. The plaintiff filed list of witnesses as well as additional documents. Request was made on behalf of the defendant to enlarge the time. The Deputy Registrar granted another four weeks time. It was held that the Deputy Registrar should not have extended this time because the time originally was granted by the Court. This amounts to violation of the powers of the Deputy Registrar as contained in Rule 3(38) in Chapter 2 of the Original Side Rules. *Ravi Sharma v. Delhi Development Authority*, (1990) 42 DLT 361.

(39) Applications for confirmation of sale and certificate of sale to purchaser of immovable property;

(40) Other interlocutory applications directed by the Judge hearing the case to be placed for disposal before the Registrar; and such other applications as by these rules are directed to be so disposed of but not included in this rule;

(41) Applications for particulars;

(42) Applications for further and better statement of particulars under Rule 5 of Order VI of the Code;

(43) Applications for better statement of claim or defence;

⁶ [(44) Examine the serving officer on oath, under Order V, Rule 19 of the Code whereas summons is returned under Order V, Rule 17 of the Code and after making necessary enquiry declare that the summons has been duly served or order such service as may be considered fit;

(45) (a) Issue summons in the manner provided in Order V, Rule 19A of the Code;

(b) Declare that the summons had been duly served on the defendant, when an acknowledgement purporting to be signed by the defendant or his agent is received;

Provided that where the summons was properly addressed, prepaid and duly sent by registered post, acknowledgement due, the declaration referred to in this clause shall be made notwithstanding the fact that the acknowledgement having been lost or mislaid, or for any other reason, has not been received within thirty days from the date of the issue of the summons;

(46) Substitute for a summons a letter signed by the Registrar, where the defendant is of a rank entitling him to such mark of consideration and send it in such a mode or manner as he thinks fit (Order V, Rule 30);

(47) To give notice of the deposit by the defendant to the plaintiff under the Code;

(48) Mark the documents produced by the plaintiff under Order VII, rule 17 of the Code for the

5. Substituted vide Notification No. 22803/Rules/DHC dated 14-12-1995 and further substituted vide Notification No.277/Rules/DHC dated 18.8.2009.

6. Clauses (44) to (55) inserted vide Notification No. 81/DHC/Rules dated 15-3-1988.

purpose of identification and after comparing the copy with the original, if it is found correct, certify it to be so and return the book to the plaintiff and cause a copy to be filed;

(49) Applications under Order XXXIII, except under Rule 9;

(50) Receive decree transferred to this Court for execution under Order XXI, Rule 7 of the Code;

(51) Direct the application to file certified copy of the decree under Order XXI, Rule 11 (3) of the Code;

(52) Application under Order XXI, Rule 14 of the Code requiring the applicant to produce a certified copy from Registrar kept in the Office of the Collector;

(53) Deal with the execution application under Order XXI, Rule 17 of the Code;

(54) Issue process for execution under Order XXI, Rule 24 of the Code and examine the officer entrusted with execution of the process if he was unable to execute the process (Order XXI, Rule 25);

(55) All uncontested applications except such as may result in final disposal of the suit or exceeding in whole or in part in respect of all or any of the parties.]

⁷[(56) Deal with and decide applications under Orders I Rule 2 and/or an application under Order I Rule 3A and/or Rule 6 of the Code of Civil Procedure;

(57) Deal with and decide applications under Order I Rule 10 of the Code of Civil Procedure;

(58) Decide applications under Order II Rule 2(3) of the Code of Civil Procedure;

(59) Decide applications seeking discharge by the counsel;

(60) Decide applications seeking exemption from filing original documents along with the pleadings or seeking leave to file documents at a later stage;

(61) Decide applications under Order IX Rule 4 and Rule 7 of the Code of Civil Procedure;

(62) To register and issue notices/summons in suits under Order XXXVII of the Code and to decide applications under Order XXXVII of the Code except applications under Order XXXVII Rule 3(5) and Rule 4 of the Code;

(63) To decide applications seeking extension of time to file the Court fee;

⁷. Clauses (56) to (65) inserted vide Notification No. 277/Rules/DHC dated 18.8.2009 and existing clause (56) renumbered as clause (66).

(64) To pass orders pertaining to renewal of Fixed Deposits where money is deposited pursuant to an order passed in any proceeding by a Court on the Original Side;

(65) To issue notice (not decide) applications under Section 14 and Section 17 of the Arbitration Act, 1940 and direct the Arbitrators(s) to file the record of arbitration in Court];

⁸ [(66) Any matter which in accordance with orders or directions issued by the Court is required to dealt with by the Registrar.]

3-A. All applications except those in which urgent *ex parte* orders are sought will be placed before the Registrar in the first instance. He will dispose of such of them as he is empowered to do, and as regards the rest may call for replies and rejoinders and take such other steps as are necessary to make them ready for hearing, before listing them before the Court.

COMMENTS

Where a suit was filed on original side of High Court under Order 37 CPC and the Deputy Registrar hold that the defendants were properly served. The plaint was deemed to be under Order 37 of the Code, hence appealable under Rule 4 of Chapter 2 of these Rules. *Khera Handloom Supply, Co. v. O.B. Exports*, (1990) 41 DLT 343.

4. Appeal against the Registrar's orders—Any person aggrieved by any order made by the Registrar under Rule 3 may, within fifteen days of the making of such order, appeal against it to the *Judge in Chambers*. The appeal shall be in the form of a petition bearing Court fee stamp of the value of Rs. 2.65 P.

COMMENTS

In a money suit, Court fees not paid as per Section 7 of the Court Fees Act—Objection by registry—Appeal against—Appellant pleaded compensation payable in terms of *francs* and conversion has to be made on an exchange rate prevailing on the date of judgment. Plaintiff unable to work out exact amount of Court fee and has to be fix an tentative value with an undertaking to make up deficiency. Held: There is no provision of tentative value of Court fee on simple money suits. Order of Joint Registrar affirmed. *R & D. Enterprises (Exporters) & anothers v. Air Fance & anothers*, 1997 (43) DRJ 443 : 1997 (5) AD (Delhi) 570.

5. Adjournments—The Registrar may, and, if so directed by the Judge in Chambers, shall at any time adjourn any matter and lay the same before the Judge in Chambers, and the Judge in Chambers may at any time adjourn any matter in Court.

6. Delegation of the Registrar's Powers—The Chief Justice and companion Judges may assign or delegate to a Deputy Registrar or to any officer any functions required by these Rules to be exercised by the Registrar.

7. Disposal of matters by Judge in Chambers—The following matters may be heard and determined by a Judge in Chambers:

(1) Appeal from the order of the Registrar or a reference made by him or directed to be made by the Judge in Chambers;

(2) Application for arrest before judgment, for attachment before judgment and for appointment of a receiver;

8. Original Clause (44) renumbered as (56) vide Notification No. 81/DHC/Rules dated 15-3-1988 and further renumbered as (66) vide Notification No.277/Rules/DHC dated 18.8.2009.

- (3) Applications by defendant where he pleads a set-off under Rule 6 of Order VIII of the Code;
- (4) Applications by defendant for setting up a counterclaim and applications in relation thereto;
- (5) Applications by receivers, guardians and other relating to the management and disposal of the property;
- (6) Applications for leave under sub-rule (3) of Rule 2 of Order II of the Code;
- (7) Applications under Rule 4, Order II to join causes of action in a suit for the recovery of immovable property;
- (8) Applications for stay of execution under Rule 26(1) and (2) of Order XXI of the Code;
- (9) Application for separate trials of different causes of action joined in one suit;
- (10) Applications for setting down for judgment in default of written statement;
- (11) Applications for amendment of pleadings and for enlargement of time to amend pleadings;
- (12) Applications to tax bills returned by the Taxing Officer;
- (13) Applications for review of taxation;
- (14) Applications for leave to defend under Chapter XV of these Rules;
- (15) Application for executions of a decree or order, or for arrest of a judgment-debtor when such judgment-debtor does not appear on the day of hearing fixed under the notice issued or on such day as the hearing thereof may be postponed to, or by attachment or sale with power to order issue of notice under Sections 74 and 145 and under Rules 2, 16, 22, 34(2), 37 or 66(2) of Order XXI of the Code.