

[17] PUNJAB AND HARYANA HIGH COURT CASE FLOW
MANAGEMENT RULES, 2007

In exercise of the powers conferred by Part X of the Code of Civil Procedure 1908 (5 of 1908), amended up to date and all other enabling powers, the High Court of Punjab and Haryana hereby makes the following Rules, in regard to case flow management in the subordinate courts with an object to set a time-table and to monitor every case from its filing to its disposal; for enhancing and expediting the disposal; and to control the delay in dispensation of justice by the Subordinate Courts and the High Court.

These Rules will be called Punjab and Haryana High Court Case Flow Management Rules, 2007.

These Rules will come into operation w.e.f. the date of publication in the official Gazettes of States of Punjab, Haryana and U.T., Chandigarh.

RULES FOR SUBORDINATE COURTS (TRIAL AND APPELLATE)

- (A) Division of Civil Suits into Tracks.- (1) Based on the nature of the dispute, the quantum of evidence to be recorded and the time likely to be taken for the completion of trial of suits, the suits shall be channeled into different tracks.

Track I (Fast Track):

- (i) Rent petitions on the ground of personal necessity including petitions filed by specified landlords and Non-Resident Indians;
- (ii) Cases of maintenance, custody of children including visitation rights;
- (iii) All cases relating to senior citizens i.e. where plaintiff is above 65 years of age on the date of filing of the suit;
- (iv) Cases relating to grant of succession certificates;
- (v) Money suits based on Negotiable Instruments filed under Order XXXVII where leave to defend has been granted.
- (vi) Uncontested applications for grant of probate and letters of administration.

Track II:

All other cases.

All efforts shall be made to decide the cases of Track I within a period of 6 months and suits of Track II shall be decided within a period of one year. The time period for deciding the suit shall commence on the date of framing of issues. However, on the date of settlement of issues, the Trial Court may, for reasons to be recorded, place any suit not covered under Track I in track, if circumstances of the case so demand.

Note.- Where statute requires that suits/proceedings have to be completed within a specified period then the above mentioned period for deciding the suit shall not apply, and the Court shall decide the suit within the given statutory period. Time limit fixed for various stages of civil suits as per Code of Civil Procedure shall be adhered to.

B. Appeals :

Appeals arising out of a Track I case shall be decide within 6 months. All other appeals shall be decided within I year. Notice shall always be issued to the counsel who appeared for the respondent in the Trial Court in view of Order 41 Rule 14 CPC.

II ORIGINAL SUIT ;

1. Fixation of time limit while issuing notice ;

- (a) whenever notice is issued in a suit, the notice shall indicate that the Code prescribes a maximum period of 30 days for filing written statement.
- (b) The notice referred to in clause (a) shall be accompanied by a complete copy of the plaint and all its annexure/enclosures and copies of the interlocutory applications, if any.
- (c) If interlocutory applications are filed along with the plaint, and an *ex-parte* interim order has not been passed and the court is desirous of hearing the respondent, it may while sending the notice along with the plaint, fix an earlier date for the hearing of the application (other than the date of filing written statement) depending upon the urgency for the interim relief.

2. Service of Summons/notice and completion of pleadings:

- (a) Summons may be served as indicated in clause (3) of Rule 9 of Order 5.
- (b) In the case of service of summons by the plaintiff or through a courier and a return is filed that the defendant has refused notice, the return will be accompanied by an undertaking that the plaintiff or the courier, as the case may be, is aware that if the return is found to be false, he can be punished for perjury or summarily dealt with for contempt of Court for abusing the provisions of the Code. Where the plaintiff comes forward with a return of 'refusal' the provisions of Order 9A Rule (4) will be followed by re-issue of summons through the Court.
- (c) If it has not been possible to effect service of summons under Rule 9 of Order 5, the provisions of Rule 17 of Order 5 shall apply and the plaintiff shall, within 7 days from the date of his inability to serve the summons, request the Court to permit substituted service. The dates for filing the written statement and replication, if any, shall accordingly stand extended.

3. Procedure on the grant of interim orders:

- (a) if an interim order is granted at the first hearing by the Court, the defendant would have the option of moving appropriate applications for vacating the interim order even before the returnable date indicated in the notice and if such an application is filed, it shall be listed as soon as possible even before the returnable dates.
- (b) If the Court passes an ad-interim *ex-parte* order in an interlocutory application, and the reply by the defendant is filed, and if, thereafter, the plaintiff fails to file the rejoinder (if any) without good reason for the delay, the Court shall consider whether the stay or interim order passed by the Court should be vacated and shall list the case for that purpose. This is meant to prevent parties taking adjournments with a view to have undue benefit of the ad-interim orders. The plaintiff may, if he so chooses also waives his right to file a rejoinder. A communication of option by the plaintiff not to file a rejoinder will be deemed to be the completion of pleadings in the interlocutory applications.

4. Settlement of disputes outside the Court under Section 89 of the Code of Civil Procedure:

In the hearing before the Court, after completion of pleadings, a time limit for discovery and inspection, and admission and denial of the documents shall be fixed, preferably restricted to four weeks each.

After the completion of admission and denial of documents by the parties, the suit shall be listed before the court for examination of parties under Order 10 of the Code of Civil Procedure. A joint statement of admitted facts shall be filed before the said date. The court shall thereafter, follow the procedure prescribed under the Alternative Disputes Resolution and Mediation Rules, 2003.

5. Procedure on the failure of Alternative Disputes Resolution :

On the filing of report by the Mediator under the Mediation Rules that efforts at Mediation have failed, or a report by the Conciliator under the provisions of the Arbitration and Conciliation Act, 1996, or a report of no settlement in the Lok Adalat under the provisions of the Legal Services Authority Act, 1987 the suit shall be listed before the registry within a period of 14 days. At the said hearing before the registry all the parties shall submit the draft issues proposed by them. The suit shall be listed before the Court within 14 days thereafter, for framing of issues.

When the suit is listed after failure of the attempts at Settlement of dispute outside the Court, the Judge would merely inquire whether it is still possible for the parties to resolve the dispute. This should invariably be done by the judge at the first hearing when the matter comes back on

failure of arbitration, conciliation, Lok Adalat or mediation.

If the parties are not keen about settlement, the court shall frame the issues and direct the plaintiff to start examining his witnesses. The possibility of further negotiation and settlement should be kept open and if such a settlement takes place, it shall be open to the parties to apply for getting the matter listed at an earlier date for disposal.

6. Reference to Commissioner for recording evidence :

- (a) In every case, the Court should appoint a Commissioner for recording of evidence except in cases where the Court considers it expedient to record evidence itself for the reasons to be recorded.

The Court should direct that the matter be listed for arguments fifteen days after the Commissioner files his report with the evidence recorded.

The Court may initially fix a specific period for the completion of the recording of the evidence by the Commissioner and direct the matter to be listed on the date of expiry of the period, so that Court may know whether the parties are cooperating with the Commissioner and whether the recording of evidence is getting unnecessarily prolonged.

- (b) The Commissioner shall file an undertaking in the Court upon their appointment, that he shall keep the record handed over to him and that may be filed before him, safe and secure and shall not allow any party to inspect the record in the absence of the opposite party/counsel. If there is delay of more than one month in the dates fixed for recording evidence, it would be advisable for him to return the file to the Court and take it back on the eve of adjourned date.

7. Costs :

The costs to be so awarded would include costs for :

- (i) time and money spent by the successful party, to meet the points unnecessarily raised by the other party;
- (ii) the transportation and lodging, if any;
- (iii) typing charges; and
- (iv) other incidental costs in relation to the litigation.

8. Proceedings for perjury :

If the Trial Judge, delivering the judgment, is of the view that any of the parties or witnesses have willfully and deliberately uttered blatant falsehoods, he shall consider, at least in grave cases, whether prosecution should be initiated for perjury and order prosecution accordingly.

9. Adjournments :

The amendments to the Code have restricted the number of adjournments to three in the course of hearing of the suit, on

reasonable cause being shown. When a suit is listed before a Court and any party seeks an adjournment, the Court shall verify whether the party is seeking adjournment due to circumstances beyond the control of the party, as required by clause (b) proviso to Rule 2 Order 17. The Court shall impose costs as specified in Rule 2 of Order 17.

10. Miscellaneous Applications :

The proceedings in a suit are not be stayed merely because of the filing of Miscellaneous Application in the course of suit unless the Court in its discretion expressly thinks it necessary to stay the proceedings in the suit.

III FIRST APPEALS TO APPELLATE (SUBORDINATE) COURTS ;

1. Service of Notice of Appeal :

First Appeals being appeals on question of fact and law, whenever filed before the Appellate court, advance notice should simultaneously be given by the counsel for the party, who is proposing to file the appeal, to the counsel for the opposite party, who appeared in the subordinate Court, so as to enable the respondents to appear, if they so choose, even at the first hearing stage.

2. Fixation of time limits in interlocutory matters :

Whenever notice is issued by the Appellate Court in interlocutory matters, the notice should indicate the date by which the reply should be filed. The rejoinder, if any, should be filed within four weeks of receipt of the reply. If there are more parties than one, who are respondents, each one of the respondent should comply with this requirement within the time limit and rejoinder may be filed within four weeks from the receipt of the last reply.

3. Procedure on grant of interim orders :

(a) If any interim order is granted at the first hearing by the Court, the respondents would have the option of moving appropriate applications for vacating the interim order even before the returnable date indicated in the notice and if such an application is filed, it shall be listed as soon as possible even before the returnable date.

(b) If the court passes an *ad interim ex parte* order, and if the reply is filed by the respondent and if, without good reasons, the appellant fails to file the rejoinder, the court shall consider whether it is a fit case for vacating the stay or interim order and list the case for that purpose. This is intended to see that those who have obtained *ad interim* orders do not procrastinate in filing replies. The appellant may also waive his right to file the rejoinder. Such choice shall be conveyed to the Court on or before the date fixed for filing of rejoinder and such communication of option shall be deemed to be completion of pleadings.

4. Filing of written submissions:

Both the appellant and respondent shall be required to submit their written submissions two weeks before the commencement of the arguments in the appeal. The cause list should indicate if written submissions have been filed or not. Wherever they have not been filed, the court must insist on their being filed within a particular period to be fixed by the court and each party must serve a copy thereof on the opposite side before the date of commencement of argument. There is no question of parties filing replies to each other's written submissions.

The Court may consider having a Caution List/Alternative List to take care of eventualities, when a case does not go before the court and those cases may be listed before the court, when the scheduled cases are not taken up for hearing.

5. Costs :

Awarding of costs must be treated generally as mandatory in as much as it is the liberal attitude of the courts in not awarding costs that has led to frivolous points being raised in appeals or frivolous appeals being filed in the courts. Costs should invariably follow the event and reasons must be assigned account the costs that may have been incurred at the time of adjournments.

IV. APPLICATION/PETITION UNDER SPECIAL ACTS :

This deals with an application/petitions filed under Special Acts like the Hindu marriage Act, Indian Succession Act, Motor Vehicles Act, 1988, Land Acquisition Act, 1894.

The directions in regard to original suits, apply *mutatis mutandis* in respect of such applications/petitions.

V. CRIMINAL TRIALS AND CRIMINAL APPEALS BEFORE CRIMINAL COURTS (AT SUBORDINATE LEVEL):

(a) Criminal Trials :

1. Criminal trials should be classified on the basis of offences, sentence and whether the accused is on bail or in jail. Capital punishment cases, rape cases and cases involving sexual offences or dowry deaths should be kept in Track I. Other cases where the accused have been denied bail should be kept in Track II. Cases which affect a large number of persons, such as cases of mass cheating, economic offences, illicit liquor tragedy and food adulteration cases etc. should be kept in Track III. The offences, which are tried by special courts such as POTA, NDPS Act, Prevention of Corruption Act, etc. should be kept in Track IV whereas all other offences are to be listed in Track V.

The endeavor should be to complete Track I trials within a period of nine months, Track II and Track III trials within a period of one year, Track IV within fifteen months and Track V trials within eighteen months. The period shall commence from the framing of charges.

(b) Criminal Appeals :

2. Whenever an appeal is filed by a person in jail, and also when appeals are filed by the State, as far as possible, the appeal may be accompanied by important documents, if any, having a bearing on the question of suspension of sentence and bail.

3. In respect of appeals against acquittals, steps for appointment of amicus curiae or State Legal Aid Counsel in respect of the accused who are unrepresented by a lawyer should be undertaken by the Registry / (State Legal Services Authority) immediately after completion of four weeks of service of notice. It shall be presumed that in such an event the accused is not in a position to engage counsel.

4. Advance notice should simultaneously be given by the counsel for the party, who is proposing to file the appeal, to the counsel for the opposite party in the Subordinate Court, so as to enable the other party to appear, if they so choose even at the first hearing stage.

VI. NOTICE ISSUED UNDER S. 80 OF CODE OF CIVIL PROCEDURE:

Every public authority shall appoint an officer responsible to take appropriate action on a notice issued under S. 80 of the Code of Civil Procedure. Every such officer shall act on receipt of such notice. If the Court finds that the concerned officer, on receipt of the notice, failed to take necessary action or was negligent in taking the necessary steps, the Court shall hold such officer responsible and recommend appropriate disciplinary action by the concerned authority.

VII. NOTE :

Whenever there is any inconsistency between these rules and the provisions of either the Code of Civil Procedure, 1908 or the Code of Criminal Procedure 1973 or the High Court Rules and Orders or any other Statutes, the provisions of such Codes and Statutes shall prevail.