

No.701/643/R&D/L&C/85  
Govt. of India,  
Ministry of Defence,  
New Delhi 14<sup>th</sup> Apr 1986,

To

The Director  
Defence Estates  
Ministry of Defence  
Central/Western/Southern/Eastern/Northern Command

SuB:- Court Cases : Filing of Written Statement/Counter Affidavits.

It has been noticed that draft of written statement/counter affidavits grounds of appeals or replies there to are sometimes submitted by the DEOs to this DTE Gen for approval when a very short period is left for expiry of the period of limitation with the result that it becomes impracticable to get the Legal Adviser (Def) to vett or obtaining further views of the Ministry of Law on the Subject within that short span of time available. To avoid this state of affairs and to enable us to obtain timely service/suggestions of the legal Adviser and to get the drafts to be filed on behalf of the Govt. approved, the DEOs should immediately on receipt of summons from the court, contact the Central Affidavits etc for filling in the Court and submit the same to this Dte Gen well in advance along with the opinion of Central Govt. Counsel where necessary. Copies of the plaints and enclosures mentioned therein should also be sent. The detailed instructions on the subject are already given in the Military Lands Manual relating to the submission of the report under Suit Instructions in connection with Defence lands ( as re-produced in the MLM pages 314 and 323.)

2. Instances have also come to the notice where timely and complete information/documents in respect of cases decided against the Govt. and where the appeal is to be filed were not submitted to this Dte Gen and were submitted only at the fag and of the limitation period which leads to a great pressure on all concerned. This is specially leads in cases where appeals/SLPs are to be filed in the Supreme Court, as a lot of Channels are involved in taking a decision to file or not to file an appeal in the Supreme Court.

3. As you are were that the power of sanctioning filling of SLPs against the judgments of High Court in the Supreme Court by the Govt. is exercised by the Ministry and it is very embarrassing to go the authorities at the nick of time. The DEOs under your jurisdiction may, thereafter, please be directed to submit a complete case immediately and well in advance if the case has been decided against the Govt. by the\_\_\_\_ Court and against which an appeal is to filed. The views of the Law Branch Secretariat wherever this facility is available and in other cases with the views of the Central Govt. Counsel must accompany the proposal. The last date for filing the appeal/written statement/counter affidavit etc as contemplated must be indicated in the proposal with out fail.

4. It may also be motioned that in such where the Govt. title to the land has been challenged, there need a more careful scrutiny and it should be ensured that all possible relevant documentary evidence is produced at the first opportunity available. These case should also be discussed by the DEO with the Govt. Counsel concerned before the drafting of the written statement/counter affidavit.

5. Where the proposals have been sent to Dte Gen and a reminder is issued by the local offices, the subject in the letter should be complete i.e. along with the number, same details of the property in question, should also be mentioned to facilitate dealing with the reference.

for Director General  
Defence Estates

Copy to :-

All Defence Estates Officers-- for information and necessary action.