No. 1326/DSJ/SMB/dt. 27/10/18

HIGH COURT OF DELHI : NEW DELHI

No. 53 /Rules/DHC
Dated: 25.10.2018

Copy of Notification No. 722/Rules/DHC dated 16.10.2018, as published in Delhi Gazette Extraordinary, Part IV, No. 201 (NCTD No. 635) dated 18.10.2018, regarding amendments in Delhi High Court (Original Side) Rules, 2018, is hereby circulated for information.

(REETESH SINGH)
JOINT REGISTRAR (JUDICIAL) (RULES)

Endst. No. 2758-85 /Rules/DHC/2018 Dated: 25/10/2018

Copy forwarded for information to:-

1. The District & Sessions Judge (HQ), Tis Hazari Courts, Delhi.
2. The District & Sessions Judge, North-West District, Rohini Courts, Delhi.
3. The District & Sessions Judge, South District, Saket Courts, New Delhi.
4. The District & Sessions Judge, South-West District, Dwarka Courts, Delhi.
5. The District & Sessions Judge, South-East District, Saket Courts, New Delhi
6. The District & Sessions Judge, East, Karkardooma Courts, Delhi.
7. The District & Sessions Judge, New Delhi District, Patiala House Courts, New Delhi.
8. The District & Sessions Judge, Shahdara District, Karkardooma Courts, Delhi.
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10. The District & Sessions Judge, West District, Tis Hazari Courts, Delhi.
11. The District & Sessions Judge, North District, Rohini Courts, Delhi.
12. The Principal Judge (HQ), Family Courts, Dwarka, New Delhi.
13. The Principal Secretary (Law, Justice & LA), Govt. of N.C.T. of Delhi, Delhi Secretariat, I.P.Estate, New Delhi.
14. The Secretary, Bar Council of India, 21, Rouse Avenue, Institutional Area, New Delhi- 110002.
15. The Secretary, Bar Council of Delhi, 2/6, Siri Fort Institutional Area, Khel Gaon Marg, New Delhi-110049
16. The President/Secretary, Supreme Court Bar Association, Supreme Court, New Delhi.
17. The President/Secretary, Delhi High Court Bar Association, Delhi High Court, New Delhi.
18. The President/Secretary, Bar Association, Tis Hazari Courts/Patiala House Courts/ Karkardooma Courts/Rohini Courts/Dwarka Courts/Saket Court Complex.
19. The Member Secretary, Delhi State Legal Service Authority, Patiala House Courts, New Delhi with the request to forward a copy of the Notification/Practice Directions to the Secretaries of all the eleven District Legal Services Authorities.
20. The Secretary, Delhi High Court Legal Services Committee.
21. The Chairman, District Court Website Committee, Tis Hazari, Delhi for uploading the Notification/Practice Directions on the website of Delhi District Court.
22. Joint Registrar-cum-Secretary to Hon'ble the Chief Justice.
23. All Registrars/Joint Registrars/Deputy Registrars/Assistant Registrars.
24. Deputy Registrar-cum-P.A. to Registrar General, Delhi High Court.
25. Joint Director (IT) with the request to upload the Notification on the Intranet of this Court.
26. Assistant Registrar (Library), Delhi High Court.
27. Private Secretaries to Hon'ble Judges for kind perusal of His Lordships.
28. Librarian, Judges Library, Tis Hazari Courts/Patiala House Courts/Karkardooma Courts/Rohini Courts/Dwarka Courts/Saket Court Complex.
29. Guard File.

DEPUTY REGISTRAR (RULES)

Be Circulated amongst all the Judicial officers and concerned branches, Shahdara distt, Karkardooma courts, for information and necessary compliance. A copy be also sent to website committee for uploading the same.

[redacted]

29/10/18

HIGH COURT OF DELHI: NEW DELHI

NOTIFICATION

No. 722/Rules/DHC

Dated : 16.10.2018

In exercise of the powers conferred by Section 129 of the Code of Civil Procedure, 1908 and Section 7 of the Delhi High Court Act, 1966 (Act 26 of 1966) and all other powers enabling it in this behalf, the High Court of Delhi, hereby makes the following amendments in the Delhi High Court (Original Side) Rules, 2018:-

(1) These Rules shall come into force with effect from 1st November, 2018.

A. CHAPTER - I :

1. The following proviso shall be added after the existing Rule 14:-

"Provided where the Court / Judge is of the opinion that Practice Directions are required to be issued, he may make a suitable reference to the Hon'ble Chief Justice."

2. New Rule 16A, shall be added after the existing Rule 16, in the following manner:

"16A. Power of Court to punish for giving false evidence.- Where a Court concludes that any person has given false evidence within the meaning of Section 191 of the Indian Penal Code, 1860 the Court may order such person to be detained in civil prison for a term not exceeding 3 months and / or may order the attachment of the property of such person."

B. CHAPTER - II :

1. Rule 3(14) and 3(48) shall stand deleted.

C. CHAPTER – III :

1. The following sentence shall be added to the existing Rule 1(e) at its end:-

"The plaint shall contain a statement certifying authenticity of document(s) / copies filed."

D. CHAPTER – IV :

1. In the existing Rule 1(a), the following words in brackets **"(either original or copies)"** shall be added in the first sentence in between the words "documents" and "shall be presented".

2. The following shall be substituted for the existing Rule 1(d):-

"1(d) Where copy(ies) of document(s) are filed, its index shall specify as to in whose custody, power and control are the original(s) thereof."

3. The following new Rules shall be added as Rules 1(g) and 1(h) after the existing Rule 1(f):-

"1(g) Documents shall be filed only with a list of documents. No document shall be filed as annexure to any pleading."

"1(h) A list of dates/ brief synopsis shall be filed along with the suit/ plaint/ petition."

4. The existing Rule 2(a) shall be read as Rule 2.

5. The following shall be substituted for the existing Rule 3 :-

"3. Defective pleading/ document.-(a) Upon scrutiny, if any pleading(s)/ document(s) are found defective, the Deputy Registrar/ Assistant Registrar, incharge of the Filing Counter, shall specify the objection(s), a copy of which will be kept for the Court Record, and return for removal of objection(s) and re-filing within a time not exceeding 7 days at a time and 30 days in aggregate. On every re-filing caveat clearance shall be taken. In addition, the party must again serve the corrected copy upon the caveator(s) who had a valid caveat at the time of the first filing.

(b) If the pleading(s)/ document(s) are not taken back for removal of objection(s) within 30 days time allowed under sub-Rule (a), it shall be listed before the Court for appropriate orders.

The 30 days' period for the purpose of (a) and (b) above, shall commence from the date when the Registry raises the objections on the pleading/document filed.

(c) If the pleading(s)/ document(s) are filed beyond the time allowed under sub-Rule (a) it shall be accompanied with an application for condonation of delay in re-filing."

6. In Rule 12, the word "documents" in between the words "following" and "shall be kept" appearing at two places in the said Rule, shall be replaced with the word "record".

E. CHAPTER – VI :

1. The following shall be substituted for the existing Rule 1(e):-

"1(e) Notwithstanding anything contained in Order V Rule 10 of the Code, the Court may, in the very first instance, issue summons (together with copies of plaint, application, affidavit, documents etc.) by all or any of the following modes of service, viz., registered post (acknowledgement due); speed post; authorized courier; fax; electronic mail service; SMS with a hyperlink (if required) or any other web based or virtual communication mode; or dasti service; in addition to service of summons in the ordinary way. For this purpose, the publicly available e-mail address and fax number, either on the website of the party or in public domain/ records shall also be deemed to be the correct e-mail address and fax number respectively."

F. CHAPTER VII :

1. The title of Chapter shall be substituted as **"APPEARANCE BY DEFENDANT, WRITTEN STATEMENT, SET OFF, COUNTER-CLAIM AND REPLICATION"**.

2. The following sentences shall be added to the existing Rule 2(i) at its end:-

"The written statement shall also contain a statement certifying authenticity of document(s) filed. Where copy(ies) of document(s) are filed, it shall be specified in the index as to in whose custody, power and control are the original(s) thereof. Service of summons for the purpose of this Rule shall only be deemed to be

complete after inspection is provided by the Plaintiff, if such inspection is sought by an application moved within a period of 7 days from the receipt of first set of summons."

3. The following shall be substituted for the existing Rule 2(ii):-

"Any party which seeks to inspect the originals of any documents shall give a notice for inspection and the inspection shall be given at a mutually convenient location within one week of receipt of the notice."

4. The following sentence shall be added to the existing Rule 3 at its end:-

"The affidavit referred to in this Rule shall be in accordance with the provisions of Rule 4 of Order XI of the Code, as applicable under the Commercial Courts Act."

5. The following sentence shall be added to the existing Rule 6 at its end:-

"Such affidavit referred to in this Rule shall be in accordance with the provisions of Rule 4 of Order XI of the Code, as applicable under the Commercial Courts Act."

6. The following sentence shall be added to the existing Rule 7 at its end:-

"The affidavit referred to in this Rule shall be in accordance with the provisions of Rule 4 of Order XI of the Code, as applicable under the Commercial Courts Act."

7. The following new Rule shall be added as Rule 7A after the amended Rule 7 -

"7A. Document Schedule.- After the filing of the affidavit of admission / denial, before framing of issues, parties shall jointly prepare a 'Document Schedule' in the form provided herein to be presented to the Court.

DOCUMENT SCHEDULE

1	2	3	4	5	6
Particulars of Documents	Plaintiff's Admission/ Denial	Defendant No. 1's Admission/ Denial	Defendant No. 2's Admission/ Denial	Defendant No. 3's Admission/ Denial	Court Order
Plaintiff's documents					
Defendant's documents					

*Parties are to write 'Admit'/'Deny' against each document. In case, receipt of a document is admitted and contents are denied, parties may write Admit (Receipt).

The Court would make an endorsement as to the exhibited documents in last Column of the Schedule. The 'Document Schedule', duly containing the Exhibit Nos, if any, shall form part of the proceedings of the day.

The Court may also direct filing and preparation of a similar 'Document Schedule' before the stage of final arguments."

8. The following new Rules shall be added as Rules 15, 16 and 17 after the existing Rule 14:-

"15. Commencement of Trial.- The expression 'commencement of trial' used in Order VI Rule 17 of the Code would mean the stage of tendering of evidence of the first witness in the proceeding before the Court/Registrar/Commissioner."

"16. Marking of Exhibits.-The marking of exhibits will be on the basis of the affidavit of admission and denial and originals will not be required to be produced before the Joint Registrar for the purpose of marking of exhibits. Upon marking of Exhibits the suit shall be placed before the Court within a period of four weeks for settlement of issues/Case Management hearing."

"17. Confidentiality Club.-When parties to a commercial suit wish to rely on documents/ information that are commercially or otherwise confidential in nature, the Court may constitute a Confidentiality Club so as to allow limited access to such documents/ information. In doing so, the Court may setup a structure/protocol, for the establishment and functioning of such Club, as it may deem appropriate. An illustrative structure/protocol of the Confidentiality Club is provided in ANNEXURE F. The Court may appropriately mould the structure/ protocol of the Club, based upon the facts and circumstances of each case."

G. CHAPTER – IX :

1. The following new Rule shall be added as Rule 7 after the existing Rule 6:-

"7. Settlement offer with prejudice.- A proposal to settle shall be in writing and shall be with prejudice to the proposer. The proposal shall remain valid till the conclusion of the suit/petition/original proceeding unless otherwise provided.

A proposal to settle may be responded by a counter proposal in writing, which shall also be with prejudice and would remain valid till the conclusion of the suit/petition/original proceeding, unless otherwise provided.

Where a proposal/counter proposal is declined and/or refused, and the suit/petition/original proceedings results in terms less favourable than those contained in the proposal/counter proposal, the party declining and/or refusing to accept the proposal/counter proposal, notwithstanding being entitled to grant of relief, as awarded by the Court, shall however, be burdened with costs as provided in Rule 2(i) of Chapter XXIII of these Rules.

In case the suit/petition/original proceedings results in terms more favourable than those contained in the proposal/counter proposal, the party declining/refusing to accept the same shall, in addition, to the grant of reliefs, as awarded by the Court, be also entitled to full costs of the suit/petition/original proceedings."

H. CHAPTER XA :

The following new Chapter shall be added as Chapter XA after the existing Chapter X:-

"CHAPTER XA
CASE MANAGEMENT

1. Summary Judgment.-At the time of Case Management hearing, a Court, may of its own, decide a claim pertaining to any dispute, by a summary judgment, without recording oral evidence.

2. 'Claim'.-For the purposes of this Order, the word "claim" shall include –

(a) part of a claim.

(b) any particular question on which the claim (whether in whole or its part) depends; or

(c) a counter claim, as the case may be.

3. Grounds for summary judgment.-The Court may, of its own, give a summary judgment against a plaintiff or defendant on a claim if it considers that -

(a) the plaintiff has no real prospect of succeeding on the claim or the defendant has no real prospect of successfully defending the claim, as the case may be; and

(b) there is no other compelling reason why the claim should not be disposed of before recording of oral evidence.

4. Other orders / directions.- The Court may, *inter-alia*, pass orders / directions as it may think fit for the speedy disposal of the suit or narrowing the controversy between the parties, including:-

a) calling upon the parties to admit or deny such allegations of fact as are made in the plaint or written statement and are not expressly or by implication admitted or denied by the party against whom they are made as provided in Order X Rule 1 of the Code.

b) recording the statement of the parties under Order X Rule 2 of the Code with a view to elucidate the matter in controversy or answer the material questions relating to the suit.

c) calling upon parties to conduct inspection of documents as required under Order XI Rule 3 of the Code as applicable and direct the inspection to be conducted at any place convenient to the parties within a fixed time schedule not exceeding 30 days from the date of filing of the written statement;

d) calling upon the parties to, after inspection of the documents, file statements of admission/denial as per Order XI Rule 4 of the Code.

e) passing an order of admission of a document under Order XII Rule 2A of the Code, in case a party to which a notice has been given under Order XII Rule 2 of the Code, has failed to deny specifically or by necessary implication and also passing an order of compensation where a party unreasonably neglects or refuses to admit a document after the service of notice.

f) passing an order for paying cost of proving a document or a fact by a party, refusing or neglecting to admit a document.

g) direct listing of the matter before the Registrar for marking of exhibits on all admitted documents as also public documents of third parties for e.g., documents issued by government authorities, reputed publications, newspaper articles, electronic printouts from websites which are accessible openly.

h) conduct a Case Management hearing under Order XV-A of the Code and as part of the said case management hearing –

   i. explore the possibility of settlement between the parties as per Section 89 of the Code.

   ii. explore the possibility of deciding the dispute by a summary judgment, without a specific application for the said purpose, on the basis of pleadings dispensing with the trial of the suit on the questions of law or of facts on which the parties are not at issue.

   ii-a. strike out defences or pleas or claims which the Court considers either unreasonable, frivolous or not maintainable.

   iii. frame only such issues that arise for adjudication and upon insistence by any parties for framing of issues which the Court considers either frivolous or not maintainable, affix costs on a per issue basis to be paid by the losing party after trial.

   iv. decide such issues which do not require evidence as preliminary issues.

   v. fix a date for filing of list of witnesses by both parties.

   vi. examine the list of witnesses and direct only such witnesses to be examined as are essential for adjudication of the issues so framed so as to not permit unnecessary protraction of trial with large number of witnesses.

   vii. fix time schedules for filing of affidavits in evidence by all parties including rebuttal evidence, if any.

viii. **Where Court/ Registrar/ Commissioner deems appropriate, keeping in view volume/ number of documents required to be marked/ identified, it may dispense with marking of documents in presence of witnesses, by directing a pre-trial hearing before Court/ Registrar/ Commissioner, when identification and marking of exhibits/ affixation of suitable marks of identification can be carried out in terms of respective affidavit(s) of witnesses filed. While doing so the Court/ Registrar/ Commissioner would record objections, if any, of any party objecting to marking/ identification of documents.**

ix. **monitor the trial being carried out by fixing periodic dates before itself every 3 months after the Case Management hearing.**

x. **direct consolidation of trials in cases where identical or similar issues arise;**

xi. **direct filing of synopsis in the suit.**

xii. **direct pagination of the record and convert them to digital copies to be given to all parties in the case.**

xiii. **fix time limits for final arguments. "**

I. CHAPTER – X :

1. The existing Rule 6 shall be substituted as under:-

"6. Expert witnesses.-The Court may, either on its own motion, or on an application of any party, permit an expert witness to testify. In such a case, the Court may pass appropriate orders for recordal of his testimony (including, by hot tubbing technique, etc.), manner of recordal, document relied upon by the expert and the fee payable to him. An illustrative protocol for using the "hot tubbing" technique is provided in ANNEXURE G. The Court may appropriately mould the protocol for hot tubbing, based upon the facts and circumstances of each case."

2. In Rule 7(i), the alphabet and number **"3A"** shall be substituted with the alphabet and number **"1A".**

3. In Rule 7(iv), the words **"process fees and"** in between the words **"deposit of"** and **"diet money"** shall stand **deleted.**

J. CHAPTER – XII :

1. In Rule 8(iv), the following words shall be added at its end:-

"or at such time as the Court considers appropriate"

2. In Rule 8(v), the word "Court" shall be replaced by the words **"Court/Registrar".**

K. CHAPTER – XV :

1. The existing Rule 3(b) shall be substituted as under:-

"3(b) A notice shall be issued simultaneously to all such persons. Such persons shall be deemed to be unwilling to act as guardian *ad litem*, if, after service of notice, they fail to appear on date fixed."

L. CHAPTER – XVII :

1. The existing Rule 1 shall be substituted as under:-

"1. Commercial Suits.- In exercise of powers conferred under Section 18 of the Commercial Courts Act, the Court has issued Practice Directions in addition to these Rules to supplement the provisions of Chapter II of the Commercial Courts Act or the Code, in so far as such provisions apply to hearing of commercial

disputes of a specified value. The 'Practice Directions under Section 18 of The Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015' are annexed hereto as Annexure E."

M. CHAPTER – XVIII :

1. The last sentence of Rule 2 i.e. "Cases in which evidence is to be recorded shall be listed in the category of Long Cause and those coming up for hearing after evidence shall be listed in the category of Finals." shall be replaced by the following sentence:-

"Cases which are coming up for hearing after evidence shall be listed in the category of Finals."

N. CHAPTER – XXIII :

1. In Rule 2, after the words "execution of commissions;" and before the words "and all other", the following words shall be added:-

"whether any reasonable offer to settle is made by a party and unreasonably refused by the other party, denial of documents due to frivolous reasons at the stage of admission / denial"

O. CHAPTER – XXIV :

1. In Rule 9, the words "together with the prescribed process fee" in between the words "prescribed form" and "for service thereof" shall stand deleted.

P. CHAPTER – XXIX :

1. In Rule 9, the word "Registrar" shall be replaced by the words "Registrar/Joint Registrar/Deputy Registrar".

Q. ANNEXURE – F :

After the existing Annexure E, following new Annexure F and Annexure G shall be added :

"ANNEXURE F
CHAPTER VII RULE 17
PROTOCOL OF CONFIDENTIALITY CLUB

Procedure to be followed in dealing with confidential documents/ information

Upon hearing of an application, the Court may allow constitution of a Confidentiality Club in the following manner:-

a) All documents/ information considered as confidential ("Confidential Documents/ Information") by the Court shall be permitted to be filed in a sealed cover to kept in the safe custody of Registrar General.
b) Each party shall nominate not more than three Advocates, who are not and have not been in-house lawyers of either party, and not more than two external experts, who shall constitute the Confidentiality Club. Members of the Confidentiality Club alone shall be entitled to inspect the Confidential Documents/ Information.
c) Members of the Confidentiality Club shall be allowed to inspect the Confidential Documents/ Information before the Registrar General, without making copies

thereof. After the inspection, the Confidential Documents/ Information shall be resealed and kept in the custody of the Registrar General.

d) Members of the Confidentiality Club shall not make copies of, or disclose, or publish the contents of, the Confidential Documents/ Information to anyone else in any manner or by any means, or in any other legal proceedings and shall be bound by the orders of the Court in this behalf.

e) During recordal of evidence with respect to the Confidential Documents/ Information, only members of the Confidentiality Club shall be allowed to remain present.

f) During proceedings of the Court, when the Confidential Documents/ Information are being looked at or their contents discussed, only members of the Confidentiality Club shall be permitted to be present.

g) The Court may in its discretion and in an appropriate case, permit copies of the Confidential Documents to be given to the opposite party after redacting confidential information therefrom, if such redaction be possible and not otherwise.

h) Any evidence by way of affidavit or witness statement containing confidential information derived from the Confidential Documents/ Information shall be kept in a sealed cover with the Registrar General and would be accessible only to the members of the Confidentiality Club. However, a party filing such evidence by way of affidavit shall, if so directed by the Court, give to the opposite party, a copy of such affidavit after redacting therefrom the confidential information, if such redaction is possible and not otherwise.

i) The Confidential Documents/ Information shall not be available for inspection after disposal of the matter, except to the Party producing the same.

j) In cases where the Confidentiality Club is constituted or documents are directed to be kept confidential, the Court may consider extending the time for filing of pleadings. However, the same shall be within the overall limits prescribed by the applicable provisions."

"ANNEXURE G
CHAPTER XI RULE 6
HOT TUBBING

'Hot-tubbing' is a technique in which expert witnesses give evidence simultaneously in each other's presence and in front of the Judge, who puts the same question to each expert witnesses. It is a co-operative endeavour to identify key issues of a dispute and where possible evolve a common resolution for all of them. However, where resolution of issues is not possible, a structured discussion, allows the experts to give their opinions without the constraints of the adversarial process and in a setting which enables them to respond directly to each other. The Judge is thereby not confined to the opinion of only one expert but has the benefit of multiple experts who are rigorously examined in public.

When parties to a commercial suit wish to rely on the hot tubbing method to record the deposition of expert witnesses, then the Court may adopt the following procedure:

a) Prior to a hearing taking place, the expert witnesses take parting a meeting, at a mutually convenient place, where they prepare a Joint Statement which shall be filed before Court.

b) The Joint Statement shall consist of the agreed statement of facts and disputed issues.

c) Thereafter, suggested questions to be put to the expert witnesses, shall be filed by the parties.

d) A hearing is then conducted on the disputed issues.

e) Counsels may put questions to the expert witnesses, as may be permitted by the Court.

(ZD)

f) At the end of the proceeding, the Court would draw up the issues on which the expert witnesses agree and the issues on which they disagree.

g) On the issues on which the expert witnesses disagree, the Court shall record their statements."

BY ORDER OF THE COURT
Sd/-
(DINESH KUMAR SHARMA)
REGISTRAR GENERAL

Amendments stand published in Delhi Gazette Extraordinary, Part IV, No.201 (NCTD No.635) dated 18.10.2018