Mandatory Compliance in Maintenance Cases

Training for Stenographers & Typists: Malkangiri Judgeship

Strict Adherence to Rajnesh v. Neha Guidelines (2021)

Re-Circulation as per High Court Memo No. 18190, Dt. 16.11.2023

The Current Mandate: Why Rajnesh Matters Now

Rajnesh v. Neha (2021)

This landmark judgment provided a uniform, structured framework for deciding and enforcing maintenance claims under all statutes (Cr.P.C., HMA, DV Act). It aims to end delays and secrecy.

Aditi v. Jitesh Sharma (2023)

The Supreme Court re-emphasized that courts are still failing to adhere to the Rajnesh guidelines (especially the Affidavit). The Malkangiri Memo is a direct result of this reminder.

1. The Mandatory Disclosure Affidavit

Action Required from Parties:

- Mandatory Filing: Both the applicant and the respondent must file a detailed Affidavit of Disclosure of Assets and Liabilities

- Sanction: Non-disclosure or false disclosure is grounds for perjury proceedings and can lead to the Court striking off the Respondent's defence.

Action Required from Staff (QC Check):

Ensure the file contains the appropriate format:

- Enclosure I: Non-Agrarian (Salary, Business, Urban Assets).

- Enclosure II: Agrarian (Land, Crops, Livestock) - CRUCIAL FOR MALKANGIRI.

2. Overlapping Jurisdiction: The Rule of Avoidance

Problem: Double Dipping

A wife can file for maintenance under Cr.P.C., HMA, and DV Act, leading to multiple, sometimes conflicting, orders for the same period.

Mandate: Adjustment & Set-off

The Court must ensure that the claimant is not unjustly enriched. Any amount awarded previously must be deducted from the new award.

****Stenographer/Typist Action Point****

When drafting a final order, ensure the decretal language explicitly mentions the amount paid under the prior Act (e.g., DV Act) and confirms the **SET-OFF against the new amount awarded.**

3. Procedural Clarity and Dates

Key Timeline Mandates:

- Interim Application: Must be decided within 60 days from the date of service of notice.
- Start Date of Maintenance: Maintenance in ALL cases (Cr.P.C., HMA, DV Act) must be awarded from the Date of Filing the Application.
- Respondent's Affidavit: Must be filed within a maximum period of four weeks*

4. Enforcement of Orders: Making Justice Real

Enforcement Mechanisms

A maintenance order is not merely a piece of paper. The Court is bound to enforce it rigorously. The Typist must ensure the Order Sheet reflects these options for compliance:

- As a Money Decree: Enforced under CPC (Sections 51, 60, Order XXI) via attachment of property or civil detention.
- Imprisonment: Up to one month per month of default under Section 125(3) Cr.P.C.
- Striking Off Defence: For willful and contumacious failure to pay.

Your Daily Compliance Checklist (Steno/Typist)

- [x] Affidavit (Initial Filing): Is the correct Enclosure (I or II) filed by both parties? Flag if missing.
- [x] Deadline Tracking: Did the Respondent file their reply/affidavit within 4 weeks? Note the expiry date clearly on the file cover.
- [x] Disclosure Check: Does the applicant mention any prior/concurrent maintenance cases (DV Act, HMA)?
- [x] Decretal Drafting: Does the order explicitly start the maintenance payment from the Date of Application?
- [x] Arrear Calculation: If a set-off is directed, ensure the Adjustment amount is clearly mentioned and correctly calculated in the final decree sheet.