

**HIGH COURT OF JAMMU AND KASHMIR
SRINAGAR.**

Notification,

Srinagar, the _____, 2022

In exercise of the powers conferred by Article 227 of the Constitution of India read with section 122 of the Code of Civil Procedure, 1908, the High Court of Jammu & Kashmir and Ladakh, with prior approval of the Lieutenant Governor of the Union territory of Jammu and Kashmir hereby intends to make the following amendments in the Jammu and Kashmir General Rules (Civil) Svt. 1978; namely:-

“1. In Chapter VI;

- (i) **After rule 196**, the following shall be inserted as rule 196A; namely:-

“196A.- In appropriate cases, where the possession is not in dispute and not a question of fact for adjudication before the Court, the Court may appoint Commissioner to assess the accurate description and status of the property.”

- (ii) **After rule 210**, the following shall be inserted as 210A; namely:-

“210A.-The Court must, before passing the decree, pertaining to delivery of possession of a property ensure that the decree is unambiguous so as to not only contain clear description of the property but also having regard to the status of the property.”

2. In Chapter VIA, after rule 10, the following shall be inserted as rule 10A; namely:-

“10A.- After examination of parties under Order X or production of documents under Order XI or receipt of commission report, the Court must add all necessary or proper parties to the suit, so as to avoid multiplicity of proceedings and also make such joinder of cause of action in the same suit.”

3. In Chapter VIB;

- (i) **After rule 43**, the following shall be inserted as rule 43A; namely:-

“43A.-In suits relating to delivery of possession, the Court must examine the parties to the suit under Order X in relation to third party interest and further exercise the power under Order XI Rule 14 asking parties to disclose and produce documents, upon oath, which are in possession of the parties

including declaration pertaining to third party interest in such properties.”

- (ii) **After rule 54**, the following shall be inserted as rule 54A; namely:-

“54A.- In a suit for payment of money, before settlement of issues, the defendant may be required to disclose his assets on oath, to the extent that he is being made liable in a suit. The Court may further, at any stage, in appropriate cases during the pendency of suit, using powers under Section 151 CPC, demand security to ensure satisfaction of any decree.”

3. In Chapter VII;

- (i) **After rule 6**, the following shall be inserted as rule 6A; namely:-

“6A.- The Court should allow taking of evidence during the execution proceedings only in exceptional and rare cases where the question of fact could not be decided by resorting to any other expeditious method like appointment of Commissioner or calling for electronic materials including photographs or video with affidavits.”

- (ii) **After rule 7**, the following shall be inserted as rule 7A; namely:-

“7A.-In a money suit, the Court must invariably resort to Order XXI Rule 11, ensuring immediate execution of decree for payment of money on oral application.”

- (iii) **After rule 14**, the following shall be inserted as rule 14A; namely:-

“14A.-The Court exercising jurisdiction under Section 47 or under Order XXI of CPC, must not issue notice on an application of third-party claiming rights in a mechanical manner. Further, the Court should refrain from entertaining any such application(s) that has already been considered by the Court while adjudicating the suit or which raises any such issue which otherwise could have been raised and determined during adjudication of suit if due diligence was exercised by the applicant.”

- (iv) **After rule 17**, the following shall be inserted as rule 17A; namely:-

“17A.-The Executing Court must dispose of the Execution Proceedings within six months from the date of filing, which may be extended only by recording reasons in writing for such delay.”

- (v) **After rule 27**, the following shall be inserted as rule 27A; namely:-

“27A.-Under section 60 of CPC, the term “... in name of the judgment-debtor or by another person in trust for him or on his behalf” should be read liberally to incorporate any other person from whom he may have the ability to derive share, profit or property.”

- (vi) **After rule 85**, the following shall be inserted as rule 85A; namely:-

“85A.-The Executing Court may on satisfaction of the fact that it is not possible to execute the decree without police assistance, direct the concerned Police Station to provide police assistance to such officials who are working towards execution of the decree. Further, in case an offence against the public servant while discharging his duties is brought to the knowledge of the Court, the same must be dealt stringently in accordance with law.”

- (vii) **After rule 86**, the following shall be inserted as rule 86A; namely:-

“86A.-The Court must in appropriate cases where it finds the objection or resistance or claim to be frivolous or mala fide, resort to sub-rule (2) of rule 98 of Order XXI as well as grant compensatory costs in accordance with Section 35A.”

4. **After Chapter VII**, the following shall be added as Chapter VIIA and rule 1 thereof shall be inserted; namely:-

“1. Under Order XL Rule 1 of CPC, a Court Receiver can be appointed to monitor the status of the property in question as custodial legis for proper adjudication of the matter.”

The aforesaid amendments are hereby published in terms of section 122 of the Code of Civil Procedure, 1908, for information of general public inviting objections/ suggestions thereof; and notice is hereby given that the said draft amendment shall be taken into consideration after the expiry of a period of 07 (Seven) days from the date of publication.

Objections or suggestions if any may be sent to the Secretary to the Government, Department of Law, Justice and Parliamentary Affairs, Government of Jammu and Kashmir, Civil Secretariat, Jammu/ Srinagar or Registrar General, High Court of Jammu and Kashmir and Ladakh, J&K.

Any objection or suggestion which may be received from any person with respect to the said draft amendments within the period so specified shall be considered accordingly.

By order of the Lieutenant Governor.