

HIGH COURT OF JAMMU & KASHMIR AND LADAKH

(Office of the Registrar General at Srinagar)

Subject: Amendments in the Jammu and Kashmir General Rules (Civil) Svt.1978.

Notification

No: 1280 of 2023/ RG Dated: 22-07-2023

Whereas; in terms of section 122 of the Code of Civil Procedure, 1908, the draft amendments in the Jammu and Kashmir General Rules (Civil) Svt. 1978 were duly circulated amongst all stake holders and uploaded on the High Court website as well, for inviting suggestions/objections from one and all;

Whereas, in pursuance to the said circulation, no objection/suggestion from any quarter have been received; and

Now, therefore, 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 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 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."

By Order.


22.07.23
(Shahzad Azeem)
Registrar General

No.: 33498-525/AG/GS Dated: 22-07-2023
Copy of above forwarded to the:

- i. Principal Secretary to Hon'ble the Chief Justice, High Court of J&K and Ladakh,
- ii. Secretary to Hon'ble Mr./Mrs. Justice _____
..... for information of their Lordships.
- iii. Secretary to Government, Department of Law, Justice and Parliamentary Affairs, UT of J&K, Srinagar
..... for information.
- iv. Registrar Vigilance, High Court of J&K and Ladakh, Srinagar
- v. Director, J&K Judicial Academy, Srinagar
- vi. Registrars Judicial, High Court Wing Jammu/Srinagar.
- vii. Member Secretary, Legal Services Authority, J&K/Ladakh.
- viii. Registrar Rules, High Court of J&K and Ladakh, Srinagar
- ix. Registrar (IT), High Court of J&K and Ladakh, Srinagar
..... for information and necessary action.
- x. All Principal District & Sessions Judges, UTs of J&K and Ladakh
..... for information and with the request to circulate this Notification amongst all the Judicial Officers and compliance.
- xi. CPC, eCourts, High Court of J&K and Ladakh, for information and getting the same uploaded on the official website of the High Court.
- xii. Manager, Government Press, Jammu/Srinagar for publication in the next issue of the Government Gazette.
- xiii. Incharge Library, High Court Wing Jammu/Srinagar for information and necessary action.


22.07.23
Registrar General