

**PACKAGE  
OF  
AMENDMENTS  
TO  
CIVIL PROCEDURE CODE, 1908**

**Zafar Iqbal Kalanauri<sup>1</sup>**

## **PROPOSED AMENDMENTS TO THE SUBSTANTIVE PART OF CIVIL PROCEDURE CODE, 1908 TO MAKE IT MORE EFFECTIVE AND JUSTICE ORIENTED**

Classification of law can be broadly distinguished on its substantive and adjective aspects. The substantive law qualifies as the legal framework which deals with the defining of the legal status, establishment of the rights and duties of citizens and its extent. However, the adjective law deals with the procedure involved in establishing these rights. The Civil Procedural Code, 1908 falls into this category of adjective law.

The Code of Civil Procedure, 1908 is a procedural law related to the administration of civil proceedings in Pakistan. The Code is divided into two parts: the first part contains 158 sections and the second part contains the First Schedule, which has 51 Orders and Rules. The sections provide provisions related to general principles of jurisdiction whereas the Orders and Rules prescribe procedures and method that govern civil proceedings in Pakistan.

CPC is a collated code incorporating the various laws in its sphere but it is not exhaustive within it. Courts are to be guided by principles of equity and justice while dealing with scenarios for which the existing code may not be enough. Thus, the court's ability to take such decisions is deemed necessary in its objective of preventing any miscarriage of justice. There is the need for a more liberal understanding of CPC for justice to be delivered in its most apt manner.

Only through these adjective laws, the concept of fair trial and natural justice can be executed in reality and without these ideas in context; the court trial is deemed to be invalid and null. This project shall deal with all the important principles and doctrines enshrined in the Code that make it an efficient procedural law alongside all the amendments through which the changing needs of our society have been dealt with and the law made even more robust and justice oriented.

### **SPEEDY TRIAL**

In the system of justice provision, it is very important that a person gets justice and on time. Pakistan legal mechanism is particularly infamous for this particular aspect of delay in justice provision which ultimately defeats if not fully, at least partially the purpose of the whole trial. If the trial is not made in a speedy manner, it cannot be deemed as fair. The same as has been reiterated in various Pakistani pronouncements as well.

It is considered to be a fact that any holdup in the court proceedings clearly leads to injustice. An unreasonable delay in providing the judgment is in itself unfair to the party that is accused and he should be discharged of his offence if there does not exist any genuine rationale for the happenings. However, this may not happen in every scenario as such delay may be due to certain extra-ordinary allegations and the only option is the instruction by the court to make the process faster. To further this objective of expediting the legal process, the rights of parties to enter into a compromise or take back their suit are recognized. This is through Order XXII, Rule 3 which "parties either to abandon a claim, or to request the court, to record the compromise between the parties."

Through the insertion of Rule 3A, the objective was further bettered as a person cannot appeal from a compromise decree ensuring a trial that is faster and more justice-oriented. One of the cardinal inclusions into this system has been the Section 89 which provided greater efficiency to the system for resolution of disputes by use of ADR mechanisms. These changes brought in newer elements that if it known to the court that if a settlement can be brought forward, it shall make the conditions of such a settlement and pass on to both the camps for their analysis. After the court receives such comments, it shall either continue with the settlement or refer to other modes of settlement such as arbitration etc. The focus lies on the point that the courts must be faster in its justice delivery and unnecessary delays must be avoided at all costs.

Another prime component of CPC is Summary Procedure. To make sure that the trial process is being done in a quick manner with cases being done with quickly Section 47 of the Code explains that the questions which arise between the two sides of the suit that was passed, or through their legal representatives and in relation to the summation of the decree, shall be pronounced by the court not though any other different suit.

### **RIGHT TO FAIR TRIAL**

The right to fair trial can be rightly deemed as the most important requirement in any legal hearing as without a proper hearing no hearing can be deemed to be rightful in any sense. Any country that respects the rule of law, follows these principles in strict coherence. These rights have been explicitly expressed even in Article 10 of UDHR as well as in Article 6 of the European Convention of Human Rights and recently added Article 9 A to the Constitution of Islamic Republic of Pakistan.

In minimum, these rights in court proceedings generally includes the following:

Availability of a transparent and impartial body to adjudicate

Compulsory availability of a public hearing

A reasonable time frame is also to be fixed.

Counseling privileges.

Privilege to interpretation.

So, looking at this understanding of natural justice, the aforementioned concept of getting a fair hearing is well respected. It is mentioned in our constitution clearly that the people of the country must compulsorily gain fair trial owing to the aforementioned principles. So, in understanding this principles, there are a number of basic rights of CPC that are mentioned in the following section alongside the various amendments that have taken place over the years which strengthen the legal framework even more.

### **AUDI ALTERAM PARTEM**

This is a Latin maxim which means “To hear the other party or the opposing side”. The maxim means to convey the message that both the parties must be provided with a reasonable opportunity of responding to the arguments against them in a fair and impartial hearing. This principle finds its relevance in almost all legal systems of the world and its importance can be

known through this. A just legal system not only provides justice at the summation but throughout the tenure of its process and thus, this principle is very important.

### **RIGHT TO APPEAL**

This right is another part of the fair trial principle which has been explained in detail from Section 96 to Section 112 of the Code. This right is nothing but elementary sections that provide a background for making sure that total justice is done in the process. Also, S. 114 & S. 115 provide for the assessment and review. An appeal basically means the authority being shifted from the lower judiciary to the higher one for checking the soundness of the previous decision. It must be noted that the result of such modifications is that there shall not be any further appeal in front of the H.C if the original case has been pronounced by a singular judge from the H.C itself.

### **DOCTRINE OF RES JUDICATA**

Res Judicata is also known as “Claim Preclusion” and in latin it is referred to as a particular legal matter that is already adjudicated and it deals with the idea of preventing the continuation of the legal matter betwixt the same parties. So, res Judicata is to be used as an argument to prevent a matter from being raised again in court. It is considered to be a necessary part of the doctrine of fair trial.

The actual rationale behind is to make sure that there is no unnecessary litigation that continually sustains when there is a concurrent litigation that is going on at the same time through a competent authority.

### **CONCLUSION**

Civil Procedural Code has been very important in the legal framework owing to its various procedural aspects as well as its objective of pursuing of an efficient justice system through fair trial, free provision of legal aid and speedy justice among other ideals. An analysis of all the above has been done and it can be concluded that these ideals are being properly followed through the innumerable efforts in the Code towards the objective of natural justice. The Code engendered various innovative measures to achieve its goal of speedy trials like that of arbitration, conciliation and mediation measures of settlement which helps reduce the backlog of cases and provides fair trial to people in a more efficient manner. Not only these, there are other forms of efforts being taken for fair trial to be followed in Indian Judicial process such as Open and Public trial. All the principles of appeal and review of decisions have been properly enshrined in the framework to create a robust system that is largely unflinching. The principles of natural justice have constantly been referred to and every amendment that has taken place clearly has been through such understanding. The conclusion that can be reached through the present paper is that the Code is well-defined and but various amendments have to be made towards its modifications so that it could suit the present societal terms.

**I. PROPOSED NEW SECTION 9A OF CIVIL PROCEDURE CODE**

Sr. No.	Proposed Amendments	Existing Provisions
1.	<p><i>9A. Where at the hearing of application relating to interim relief in a suit, objection to jurisdiction is taken such issue to be decided by the court as a preliminary issue:— (1) Notwithstanding anything contained in this code or any other law for the time being in force, if at the hearing of any application for granting or setting aside an order granting any interim relief, whether by way of stay, injunction, appointment of a receiver or otherwise, made in any suit, on objection to jurisdiction of the court to entertain such suit is taken by any of the parties to the suit the court shall proceed to determine at the hearing of such application the issue as to the jurisdiction as a preliminary issue before granting for setting aside the order granting the interim relief. Any such application shall be heard and disposed of by the court as expeditiously as possible and shall not in any case be adjourned to the hearing of the suit.</i></p> <p><i>(2) Notwithstanding anything contained in sub-section (1), at the hearing of any such application the court may grant such interim relief as it may consider necessary, pending determination by it of the preliminary issue as to the jurisdiction.</i></p>	

## II. PROPOSED AMENDMENT IN SECTION 11 OF CIVIL PROCEDURE CODE

Section 10 CPC makes it mandatory for the court to stay subsequent suit involving the same matter in issue in an earlier instituted suit between the same parties or any one claiming under the parties.

But once the earlier suit is disposed of then the stayed suit becomes *resjudicata* under section 11 CPC. The problem in the issue is that in some situations the defendant suffers due to principle of *resjudicata*. The defendant in such situations then cannot get an executable decree in his favour if the earlier suit is decided in his favour. The following example will clarify the position.

*Example:- An earlier suit of declaration regarding certain property is dismissed in favour of defendant. Now the defendant wants to seek possession of the same property for which his suit for possession was stayed under section 10 CPC. But due to principle of resjudicata his suit cannot be revived and he would not be able to get possession having no executable decree of possession though issue is decided in his favour.*

Though reliefs claimed in both the suits were different but for the purpose of stay of suit identity of relief is not must (1991 CLC 409,1298; PLD 1968 Dacca 557; AIR 1962 A 108; 2009 CLC 354).

The consolidation of both the suits under section 151 CPC can be a solution but when a suit falls within section 10 CPC consolidation cannot be resorted to (PLD 1999 Karachi 81, PLD 1982 Karachi 745, PLD 1972 Supreme Court 34).

Another situation may arise where no suit of defendant at all is pending or stayed and in case of dismissal of above mentioned suit the defendant shall have to file fresh suit for possession which falls within the ambit of *resjudicata*.

In order to obviate such situations the following explanation 7 to section 11 CPC is proposed.

*“Explanation VII.-The defendant may obtain an executable decree in his favour in the suit decided in his favour by moving an application or stayed under section 10 of the Code.*

The annotated format of existing provision and proposed provision is as follows:

Sr. No.	Proposed Amendments	Existing Provisions
2.	<i>11. No Court shall try suit or issue in which the matter directly and substantially in issue has been directly and substantially in issue in a former suit between the same parties, or between parties under</i>	<i>11. No Court shall try suit or issue in which the matter directly and substantially in issue has been directly and substantially in issue in a former suit between the same parties, or between parties under whom they or any of them claim, litigating under the same title, in a Court competent to try</i>

<p>whom they or any of them claim, litigating under the same title, in a Court competent to try such subsequent suit or the suit in which such issue has been subsequently raised, and has been heard and finally decided by such Court.</p> <p><i>Explanation I.- The expression "former suit" shall denote a Suit which has been decided prior to the suit in question whether or not it was instituted prior thereto.</i></p> <p><i>Explanation II.- For the purposes of this section, the competence of a Court shall be determined irrespective of any provisions as to a right of appeal from the decision of such Court.</i></p> <p><i>Explanation III.- The matter above referred to must in the former suit have been alleged by one party and either denied or admitted, expressly, or impliedly by the other.</i></p> <p><i>Explanation IV.- Any matter which might and ought to have been made ground of defence or attack in such former suit shall be deemed to have been a matter directly and substantially in issue in such suit.</i></p> <p><i>Explanation V.- Any relief claimed in the plaint, which is not expressly granted by the decree, shall, for the purposes of this section, be deemed to have been refused.</i></p> <p><i>Explanation VI.- Where persons litigate bona fide in respect of a public right or of a private right claimed in common for themselves and others, all persons interested in such right shall, for the purposes of this section, be deemed to claim under the person so litigating.</i></p> <p><i>Explanation VII.- The defendant may obtain an executable decree in his favour in the suit decided in his favour by moving an application or</i></p>	<p>such subsequent suit or the suit in which such issue has been subsequently raised, and has been heard and finally decided by such Court.</p> <p><i>Explanation I.- The expression "former suit" shall denote a Suit which has been decided prior to the suit in question whether or not it was instituted prior thereto.</i></p> <p><i>Explanation II.- For the purposes of this section, the competence of a Court shall be determined irrespective of any provisions as to a right of appeal from the decision of such Court.</i></p> <p><i>Explanation III.- The matter above referred to must in the former suit have been alleged by one party and either denied or admitted, expressly, or impliedly by the other.</i></p> <p><i>Explanation IV.- Any matter which might and ought to have been made ground of defence or attack in such former suit shall be deemed to have been a matter directly and substantially in issue in such suit.</i></p> <p><i>Explanation V.- Any relief claimed in the plaint, which is not expressly granted by the decree, shall, for the purposes of this section, be deemed to have been refused.</i></p> <p><i>Explanation VI.- Where persons litigate bona fide in respect of a public right or of a private right claimed in common for themselves and others, all persons interested in such right shall, for the purposes of this section, be deemed to claim under the person so litigating.</i></p>
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	<i>stayed under section 10 of the Code.</i>	
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### **III. PROPOSED AMENDMENTS IN SECTION 35 A AND INSERTION OF SECTION 35B FOR COSTS IN CIVIL PROCEDURE CODE**

A trend has developed that people have started filing false or vexatious suits/applications in the Courts with the object to get some benefits by exploitations of defendants or to scandalize, malign/blackmail the Government Authorities and general public. Such-like suits/applications are resulting a heavy pendency of cases in subordinate courts as well as in High Courts and Supreme Court. Under this situation, there is a dire need to discourage the tendency to resort to litigations based upon false or vexatious suits or applications just to get undue benefits. That such suits/applications may entail liability to pay special costs besides possibility of prosecution, for abuse of the process of the Court.

Section 35A of CPC provides the compensatory cost in respect of false or vexatious claims or defences. The section prescribes the maximum limit of the cost to be twenty-five thousand rupees. Section 35A of CPC reads as follows:-

Sec. 35A. Compensatory cost in respect of false or vexatious claims or defences.- (1) If in any suit or other proceeding, (including an execution proceeding) , not being an appeal, any party objects to the claim or defence on the ground that the claim or defence or any part of it is, as against the objector, false or vexatious to the knowledge of the party by whom it has been put forward, and if thereafter, against the objector, such claim or defence is disallowed, abandoned or withdrawn in whole or in part the Court, If the objection has been taken at the earliest opportunity and if it is satisfied of the justice thereof, may, after recording its reasons for holding such claim or defence to be false or vexatious , make an order for the payment to the objector by the party by whom such claim or defence has been put forward, of costs by way of compensation.

No Court shall make any such order for the payment of an amount exceeding twenty five thousand rupees or exceeding the limits of its pecuniary jurisdiction, whichever amount is less:

Provided that where the pecuniary limits of the jurisdiction of any Court exercising the jurisdiction of a Court of Small Causes under the Provincial Small Cause Courts Act, 1887, and not being a Court constituted under that Act, are less than two hundred and fifty rupees, the High Court may empower such Court to award as costs under this section any amount not exceeding two hundred and fifty rupees and not exceeding those limits by more than one hundred rupees:

Provided further, that the High Court may limit the amount which any Court or class of Courts is empowered to award as costs under this section.

No person against whom an order has been made under this section shall, by reason thereof, be exempted from any criminal liability in respect of any claim or defence made by him.

(4) The amount of any compensation awarded under this section in respect of a false or vexatious claim or defence shall be taken into account in any subsequent suit or damages or compensation in respect of such claim or defence.

The main object of the section is to check the false or vexatious litigation, on account of which, not only the precious time and energy of the Courts are being wasted but also the public is dragged in the Courts, where they have to suffer for years together, without any justification. The section compensates the aggrieved party who is successful in assertion/defence of his rights and deters to put unnecessary litigation and harassment by filing of false or frivolous suits/applications.

Section 35 A debar the aggrieved parties to claim relief at the appellate stage. Rule 33, of Order XLI defines the power of Court of Appeal which reads as follows:–

Rule 33.- Power of Court of Appeal: The Appellate Court shall have power to pass any decree and make any order which ought to have been passed or made and to pass or make such further or other decree or order as the case may require , and these powers may be exercised by the Court notwithstanding that the appeal is as to part only of the decree and may be exercised in favour of all or any of the respondents or parties, although such respondents or parties may not have filed any appeal or objection.

Provided that the Appellate Court shall not make any order under Section 35A, in pursuance of any objection on which the Court from whose decree the appeal is preferred has omitted or refused to make such order.

Rule 33, Order XLI of the Code confers very wide discretion on the Appellate Court but this power has to be exercised firstly, when a party to the appeal is entitled to it. In other words, when there is a party who is dissatisfied or aggrieved by the order under appeal though it may not have appealed therefrom , and secondly-

(i) to avoid contradictory and inconsistent decision on the same question in the same suit. In other words to obviate coming ' into existence of impossible, contradictory or unworkable orders of decisions;

(ii) to adjust the rights of the parties in accordance with justice , equity and good conscience; to do complete justice between the parties;

The High Court has ample jurisdiction to impose costs upon any party who approaches the Courts with ulterior motives or conceal material facts or public functionaries who passed the orders against the citizens in violation of the procedure prescribed under the law.

The Lahore High Court in its judgment in the case of Muhammad Zia v/s Ch. Nazir (2002 CLC 59 Lahore) held that:-

"The provisions of Civil Procedure Code are applicable to the writ jurisdiction, yet under-Article 199 of the Constitution, which is an extraordinary Constitutional Jurisdiction, the Court had ample power to do justice and to prevent the misuse or abuse of authority by the public functionary. Section 35A, C.P.C. in no way limits the Constitutional jurisdiction of the Court"

As such, to meet the ends of justice as well as to achieve the object the High Court of Sindh in a writ petition imposed special costs to the petitioners. The Court in its judgment (PLD 2001 Kar 442) held that:-

“Appellate Court is empowered to do complete justice and can pass any decree or order and can interfere when it becomes necessary to adjust or readjust the right and interest of the parties or for settlement of mutual rights and obligations of the parties in accordance with the justice, equity and good conscience.”

The Supreme Court in its judgment (1995 SCMR 435) also held that:-

"Rule 6 of Order XXXIII of the Supreme Court Rules, 1980, provides that nothing in the Rules would be deemed to limit or otherwise affect the inherent powers of the Court to make such orders as may be necessary in the ends of justice or to prevent the abuse of the process of the Court. To the same effect are the powers vested in an appellate Court under Order XLI, Rule 33 as well as under section 151 of the Code. Supreme Court could not refuse relief to the appellant on a mere technical ground, having regard to the facts and circumstances of the case."

The compensatory cost provided under Section 35 A was enhanced in 1994 by the Civil Law Reforms Act, 1994 (XIV of 1994), on the recommendation of the Commission constituted for reform of Civil Laws. Due to increasing the tendency of false and vexatious litigations, and prevailing rate of inflation the cost as prescribed is inadequate and needs to be reasonably enhanced to discourage false or vexatious litigations.

It is pointed out that in the proviso to sub-section (2) of Section 35A the pecuniary limits of the jurisdiction of Court of Small Causes established under the Provincial Small Cause Courts Act, 1887, is defined. The Act of 1887 has been repealed by section 42 of the Small Claims and Minors Offences Courts Ordinance 2002, which also provides that the said Ordinance shall have overriding effect over other laws. The pecuniary limits of the above mentioned Courts as referred to in the proviso require to be omitted, because the provisions of CPC are not applicable to the Ordinance, 2002.

It is therefore suggested that:-

The limit prescribed in sub-section (2) of Section 35 A CPC may be enhanced from twenty-five thousand rupees to one hundred thousand rupees.

The first proviso to sub-section (2) of Section 35 A may be omitted;

In the second proviso to Section 35 A the commas and word ", further," may be omitted;

Sr. No.	Proposed Amendments	Existing Provisions
3.	<p><b>35-A.-(1)</b> <i>If in any suit or other proceeding including an execution proceeding), not being an appeal, any party objects to the claim or defence on the ground that the claim or defence or any part of it is, as against the objector, false or vexatious to the knowledge of the party by whom it has been put forward, and if thereafter, as against the objector, such claim or defence is disallowed, abandoned or withdrawn in whole or in part, the. Court, if the objection has been taken at the earliest opportunity and if it is satisfied of the justice thereof, may, after recording its reasons for holding such claim or defence to be false or vexatious, make an order for the payment to the objector by the party by whom such claim or defence has been put forward, of costs by way of compensation.</i></p> <p><i>(1-A) The provisions of sub-section (1) shall mutatis mutandis apply to an appeal where the appellate Court confirms the decision of the trial Court and the trial Court has not awarded, or has awarded insufficient, compensatory cost under that sub-section (1).</i></p> <p><i>(2) No Court shall make any such order for the payment of an amount exceeding one hundred thousand rupees or exceeding the limits of its pecuniary</i></p>	<p><i>35-A.-(1) If in any suit or other proceeding including an execution proceeding), not being an appeal, any party objects to the claim or defence on the ground that the claim or defence or any part of it is, as against the objector, false or vexatious to the knowledge of the party by whom it has been put forward, and if thereafter, as against the objector, such claim or defence is disallowed, abandoned or withdrawn in whole or in part, the. Court, if the objection has been taken at the earliest opportunity and if it is satisfied of the justice thereof, may, after recording its reasons for holding such claim or defence to be false or vexatious, make an order for the payment to the objector by the party by whom such claim or defence has been put forward, of costs by way of compensation.</i></p> <p><i>(2) No Court shall make any such order for the payment of an amount exceeding twenty five thousand rupees or exceeding the limits of its pecuniary jurisdiction, whichever amount is less;</i></p> <p><i>Provided that where the pecuniary limits of the jurisdiction of any Court exercising the jurisdiction of a Court of Small Causes under the Provincial Small Cause Courts Act, 1887, and not being a Court constituted under that Act are less than two hundred and fifty rupees, the High Court may empower such Court to award as costs under this section any amount not exceeding two hundred and fifty rupees and not exceeding those limits by</i></p>

<p><i>jurisdiction, whichever amount is less;</i></p> <p><i>Provided further, that the High Court may limit the amount which any Court or class of Courts is empowered to award as costs under this section.</i></p> <p><i>No person against whom an order has been made under this section shall, by reason thereof, be exempted from any criminal liability in respect of any claim or defence made by him.</i></p> <p><i>The amount of any compensation awarded under this section in respect of a false or vexatious claim or defence shall be taken into account in any subsequent suit for damages or compensation in respect of such claim or defence.</i></p> <p><i>(3) If in any suit or other proceedings including proceedings in execution, but not being an appeal or revision, the Court finds that tile claim or defence or any part thereof is false or vexatious to the knowledge of the party by whom it has been put forward and if such claim or defence or such part is disallowed, abandoned or withdrawn in whole or in part, the Court may, after recording its reasons for holding such claim or defence to be false or vexatious, make an order for the payment to the successful party of costs by way of compensation irrespective of the decisions on other issues in the case.</i></p> <p><b>35B. Costs for causing delay.-</b> <i>(1) If, on any date fixed for the hearing of a suit or for taking any step therein, a party to the suit—</i></p>	<p><i>more than one hundred rupees:</i></p> <p><i>Provided further, that the High Court may limit the amount which any Court or class of Courts is empowered to award as costs under this section.</i></p> <p><i>No person against whom an order has been made under this section shall, by reason thereof, be exempted from any criminal liability in respect of any claim or defence made by him.</i></p> <p><i>The amount of any compensation awarded under this section in respect of a false or vexatious claim or defence shall be taken into account in any subsequent suit for damages or compensation in respect of such claim or defence.</i></p>
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<p><i>(a) fails to take the step which he was required by or under this Code to take on that date, or</i></p> <p><i>(b) obtains an adjournment for taking such step or for producing evidence or on any other ground,</i></p> <p><i>the court may, for reasons to be recorded, make an order requiring such party to pay to the other party such costs, as would, in the opinion of the court, be reasonably sufficient to reimburse the other party in respect of the expenses incurred by him in attending the court on that date, and payment of such costs, on the date next following the date of such order, shall be a condition precedent to the further prosecution of,—</i></p> <p><i>(a) the suit by the plaintiff, where the plaintiff was ordered to pay such costs,</i></p> <p><i>(b) the defence by the defendant, where the defendant was ordered to pay such costs.</i></p> <p><i>Explanation: Where separate defences have been raised by the defendants or groups of defendants, payment of such costs shall be a condition precedent to the further prosecution of the defence by such defendants or groups of defendants as have been ordered by the court to pay such costs.</i></p> <p><i>(2) The costs, ordered to be paid under sub-section (1), shall not, if paid, be included in the costs awarded in the decree passed in the suit; but, if such costs are not paid, a separate order shall be drawn up indicating the amount of such</i></p>	
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	<p><i>costs and the names and addresses of the persons by whom such costs are payable and the order so drawn up shall be executable against such persons.</i></p>	
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#### **IV. PROPOSED AMENDMENTS IN SECTION 89A AND ORDER X CIVIL PROCEDURE CODE**

After the introduction of ADR in CPC through insertion of section 89A and Rule 1A of Order X a need was felt to provide for detail procedure of ADR in legal circles.

As a consequence some amendments were passed by the National Assembly by substituting Section 89A vide Legal Reforms Bill 2007 but the same could not be got through the Senate due to some technical reasons.

The debate gained impetus in judicial and legal circles for providing an effective and detailed procedure for the proper use and implementation of ADR regime.

Section 89 A by Law Reforms of 2007 as passed by National Assembly.

**Section 89 A.-** All courts shall, in cases of civil or commercial nature at any stage of the case, preferably at the initial stage require the parties to have resort to one of alternative dispute resolution methods such as mediation or conciliation.

Notwithstanding anything contained in sub-section (1), the parties may resort to mediation or conciliation before the legal proceedings are commenced in a court and in that case the parties or either of them may apply to court for resolution of their dispute through mediation or conciliation. If either of the parties applies to the court for resolution of their dispute through mediation or conciliation, the court shall serve notice on the other party or parties and if both or all of them agree to on resolution of their dispute through mediation or conciliation, the court shall refer the matter to a mediator or conciliator as provided in sub-section (3) and upon such reference other provisions of this section shall mutatis mutandis apply.

The court may refer the matter to a retired judge of a superior court or a sub-ordinate court, a technocrat having experience in the relevant field or a lawyer from a panel maintained for the purpose or any other person agreed by the parties. Upon referring the matter, the court shall direct the parties to appear before the conciliator on date and time fixed by the court under intimation to the mediator or conciliator.

The parties to the dispute shall take part in the mediation or conciliation proceedings in person or through an authorized representative.

A mediator or conciliator to whom a matter is referred for mediation or conciliation under this section shall try to resolve the dispute within a period of sixty days, extendable by the court for sufficient cause for another period of thirty days and during this period the court proceedings shall remain stayed.

In dealing with the dispute or difference referred to him, the mediator or conciliator may follow such fair procedures as may be necessary in the circumstances of the case.



If as a result of the efforts of mediator or conciliator, a settlement is reached between the parties, the mediator or conciliator shall record such statement, duly signed by him and the parties and submit it to the court. The court shall pronounce judgment in terms of settlement and upon the judgment so pronounced a decree shall follow.

If the efforts of mediator or conciliator, fail in bringing about a settlement between the parties, the mediator or conciliator shall submit a report certifying that the parties have not reached any settlement and the court shall proceed with the case.

Save as otherwise provided in this section, the proceedings before the mediator or conciliator shall not be admissible before any court and the mediator or conciliator shall not be required to appear as witness or otherwise in any arbitral or judicial proceedings with respect to a dispute that is or was the subject-matter of mediation or conciliation. The mediator or conciliator shall also not act as an arbitrator or as representative or counsel of a party in any arbitral or judicial proceedings with respect to a dispute that is or was the subject-matter of a mediation or conciliation.

The Code and the Qanoon-e-Shahadat, 1984 (P.O o 10 of 1984)) shall not apply to the proceedings before the mediator or conciliator.

No appeal or revision shall lie from a decree or order made a result of the consent of the parties. The High Court or Federal Government may make rules for giving effect to the provisions of this section.

Proposed Amendment in Civil Procedure Code on ADR.

**89-A. Alternative dispute resolution.** (1) The court shall, at any stage of the case, preferably at the initial stage require the parties for settlement of any dispute through any mode of alternative dispute resolution as agreed to by the parties and shall then refer the matter for settlement as prescribed.

1. The court shall, on the application of any of the parties to the suit, cause to be issued to the parties and their Legal Practitioners (if any) a notice for settlement of any dispute through any mode of alternative dispute resolution as agreed to by the parties and shall then refer the matter to the settlement as prescribed.
2. The court shall, on the application of any parties before any legal proceedings are commenced in a court issue a notice to the parties and their Legal Practitioners (if any) for settlement of any dispute through any alternative dispute resolution as agreed to by the parties and shall then refer the matter to the settlement as prescribed.
3. No appeal shall lie from a decree or order made as a result of the consent of the parties.

**Order X 1A.** The court shall refer the matter to a settlement forum for an amicable settlement as agreed by the parties. Upon referring the matter, the court shall direct the parties to appear before the settlement forum on date and time fixed by the court under intimation to the settlement forum. The parties to the dispute shall take part in the settlement proceedings in person or through an authorized representative.

Provided that the court may in fit cases refer the party or parties to any orientation facility for convincing him or them to resort to any of the modes of alternative dispute resolution.

**Explanation:** The term “settlement forum” used in this Order means an accredited or recognized mediator, a forum created by any law, a customary forum or any other person agreed by the parties for amicable settlement

**1B.** The settlement forum to which a matter is referred for settlement under this section shall try to resolve the dispute within a period of thirty days, extendable by the court for sufficient cause for another period of fifteen days and during this period the court proceedings shall remain stayed.

**1C.** In dealing with the dispute referred to it, the settlement forum may follow such fair procedures as may be necessary in the circumstances of the case.

If as a result of the efforts of the settlement forum, a settlement is reached between the parties; the settlement forum shall record such statement, duly signed by each member of the settlement forum and the parties and submit it to the court. The court shall pronounce judgment in terms of settlement and upon the judgment so pronounced a decree shall follow.

Provided that no such judgment shall be pronounced if the terms of the settlement are clearly illegal and in such event the court shall remit the case back to the settlement forum by bringing the illegality in to its notice and for resubmission within seven days.

**1D.** If the efforts of the settlement forum fail in bringing about a settlement between the parties initially or on remand, the settlement forum shall submit a report certifying that the parties have not reached any settlement and the court shall proceed with the case.

**1E.** Save as otherwise provided in this section, the proceedings before the settlement forum shall not be admissible before any court and no member of the settlement forum shall be required to appear as witness or otherwise in any arbitral or judicial proceedings with respect to a dispute that is or was the subject-matter of the settlement. No member of the settlement forum shall act as an arbitrator or as representative or counsel of a party in any arbitral or judicial proceedings with respect to a dispute that is or was the subject-matter of the settlement.

**1F.** The Code and the Qanoon-e-Shahadat, 1984 (P.O o 10 of 1984)) shall not apply to the proceedings before the settlement forum.

**1G.** The fee, if any, of settlement proceedings shall be borne by the parties as fixed by the court in each case.

The annotated format of existing provision and proposed provision is as follows:

Sr. No.	Proposed Amendments	Existing Provisions
4.	<p><i>Section 89-A-. Alternative dispute resolution. (1) The court shall, at any stage of the case, preferably at the initial stage require the parties for settlement of any dispute through any mode of alternative dispute resolution as agreed to by the parties and shall then refer the matter for settlement as prescribed.</i></p> <p><i>(2) The court shall, on the application of any of the parties to the suit, cause to be issued to the</i></p>	<p><i>Section 89-A. Alternate dispute resolution. The Court may, where it considers necessary, having regard to the facts and circumstances of the case with the object of securing expeditious disposal of a case, or in relation to a suit, adopt with the consent of the parties alternate dispute resolution method, including mediation and conciliation.</i></p> <p><i>Order X Rule 1A. The Court may adopt any lawful procedure not inconsistent with the provisions of this Code to :</i></p>

<p><i>parties and their Legal Practitioners (if any) a notice for settlement of any dispute through any mode of alternative dispute resolution as agreed to by the parties and shall then refer the matter to the settlement as prescribed.</i></p> <p><i>(3) The court shall, on the application of any parties before any legal proceedings are commenced in a court issue a notice to the parties and their Legal Practitioners (if any) for settlement of any dispute through any alternative dispute resolution as agreed to by the parties and shall then refer the matter to the settlement as prescribed.</i></p> <p><i>(4) No appeal shall lie from a decree or order made as a result of the consent of the parties.</i></p> <p><i>1A. The court shall refer the matter to a Settlement Forum for an amicable settlement as agreed by the parties. Upon referring the matter, the court shall direct the parties to appear before the Settlement Forum on date and time fixed by the court under intimation to the Settlement Forum. The parties to the dispute shall take part in the settlement proceedings in person or through an authorized representative.</i></p> <p><i>Provided that the court may in fit cases refer the party or parties to any orientation facility for convincing him or them to resort to any of the modes of alternative dispute resolution.</i></p> <p><i>1B. The Settlement Forum to which a matter is referred for settlement under this section shall try to resolve the dispute within a period of thirty days, extendable by the court for sufficient cause for another</i></p>	<p><i>(1) Conduct preliminary proceedings and issue order for expedition processing the case;</i></p> <p><i>(2) issue, with the consent of parties, commission to examine witnesses, admit documents and take other steps for the purpose of trial; adopt, with the consent of parties, any alternative method of dispute resolution including mediation, conciliation or any such other means.</i></p>
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*period of fifteen days and during this period the court proceedings shall remain stayed.*

*1C. In dealing with the dispute or difference referred to it, the Settlement Forum may follow such fair procedures as may be necessary in the circumstances of the case.*

*If as a result of the efforts of the Settlement Forum, a settlement is reached between the parties; the Settlement Forum shall record such statement, duly signed by each member of the Settlement Forum and the parties and submit it to the court. The court shall pronounce judgment in terms of settlement and upon the judgment so pronounced a decree shall follow.*

*Provided that no such judgment shall be pronounced if the terms of the settlement are clearly illegal and in such event the court shall remit the case back to the Settlement Forum by bringing the illegality in to its notice and for resubmission within seven days.*

*1D.If the efforts of the Settlement Forum fail in bringing about a settlement between the parties, the Settlement Forum shall submit a report certifying that the parties have not reached any settlement and the court shall proceed with the case.*

*1E. Save as otherwise provided in this section, the proceedings before the Settlement Forum shall not be admissible before any court and no member of the Settlement Forum shall be required to appear as witness or otherwise in any arbitral or judicial proceedings with respect to a dispute that is or was the subject-matter of the settlement. No member of the Settlement Forum shall also act as an arbitrator or as*

	<p><i>representative or counsel of a party in any arbitral or judicial proceedings with respect to a dispute that is or was the subject-matter of the settlement.</i></p> <p><i>1F. The Code and the Qanoon-e-Shahadat, 1984 (P.O.No 10 of 1984)) shall not apply to the proceedings before the mediator or conciliator.</i></p> <p><i>1G. The fee, if any, of settlement proceedings shall be borne by the parties as fixed by the court in each case.</i></p> <p><i>Explanation: The term "Settlement Forum" means an accredited or recognized mediator, a forum created by any law, a customary forum or any other person agreed by the parties for amicable settlement.</i></p>	
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## **V. PROPOSED AMENDMENTS IN SECTION 89A AND ORDER X CIVIL PROCEDURE CODE -SCHEME OF CIVIL PRISON**

1. In the scheme of laws, there are two types of prisons i.e., the civil prison and prison.
2. All those held responsible for civil liability are sent to civil prison and those for criminal liability to prison.
3. This basic categorization is meant; inter alia, for the purpose of differentiating between two categories of prisoners for the following reasons.
  - a) To identify whether the prisoner is involved or guilty of offence or a civil liability only. The legal repercussions of both kind of imprisonment are quite different as to their effect on the future career of prisoner.
  - b) To treat the prisoner accordingly if involved in offence or civil liability like remissions, labor, class etc.
4. This categorization of both types of prison is basically made not by Civil Procedure Code, in force for the time being, but by prison laws and rules.

5. In order to highlight it we may refer to Section 514 Criminal Procedure Code where under a surety is sent to civil prison.
6. Similarly under CPC judgment debtor and some others are sent to civil prison and not the prison.
7. But the scheme of CPC prior to 1980 was that in cases of execution the judgment debtor could not be sent to civil prison unless subsistence allowance was paid under section 57. By virtue of Section 7 of Ordinance X of 1980, Section 57 was omitted in order to give relief to decree holders not to deposit subsistence allowance. It did not mean that civil prison was abolished as highlighted earlier that civil prison is not the creation of CPC; nor is it confined to judgment debtors only and furthermore it cannot be abolished so long as we are to make difference between both types of prisoners.

As mentioned above that under Criminal Procedure Code even a surety can be sent to civil prison having never been linked to subsistence allowance. Similarly under Order 39 Rule 2(3) CPC a contemnor is sent to **civil prison** without having ever been linked with deposit of subsistence allowance. And secondly the person sent to civil prison under Order 39 CPC is to be differentiated from the person sent for criminal contempt of court as to their legal post detention/conviction repercussions.

But ironically the word “**Civil**” has been omitted by Section 5 of same Ordinance X of 1980 from some of the Sections and by Act XIV of 1994 from some of the Orders of First Schedule of CPC and not all. These Sections and Orders wherefrom the word “**Civil**” is omitted are as under;

- a. Section 55(1)
- b. Section 56
- c. Order 21 Rule 30
- d. Order 21 Rule 31(1)
- e. Order 21 Rule 32(1)
- f. Order 21 Rule 32(2)
- g. After Order 21 Rule 36 in the heading

- h. Order 21 Rule 37(1)
- i. Order 21 Rule 40(1)
- j. Order 21 Rule 40(3)
- k. Order 21 Rule 98
- l. Order 38 Rule 4
- m. Order 39 Rule 2(3)
- n. In Appendix E in Form 12,14 and 41
- o. In Appendix F in Form 4

8. All this was done under the wrong impression that with the omission of Section 57 the concept of civil prison is no more available; but this amendment left the word intact in some of the Sections and Orders of CPC, perhaps by failure of drafter in making complete list of words '**Civil Prison**' in CPC. The detail of left over Sections and Orders of CPC is as under.

- a. Section 94(c)
- b. Section 104
- c. Order 16 Rule 16(2)
- d. Order 16 Rule(18)

- 1) Now there is a legal anomaly in CPC as to the word "**Civil**" preceding the word "**Prison**" by omissions and retentions.
- 2) The proper course is now to revive the word "**Civil**" in all the places mentioned in para 9 above.
- 3) The following amendments, therefore, proposed.

1. In sub section 1 of section 51 of the Code of Civil Procedure, 1908 (Act No V of

- 1908) after the words “**detention in**” the word “**civil**” shall be substituted.
2. In section 56 of the Code of Civil Procedure, 1908 (Act No V of 1908) after the word “**in the**” the word “**civil**” shall be substituted.
  3. In Order XXI rule 30 of the Code of Civil Procedure, 1908 (Act No V of 1908) after the words “**detention in**” the word “**civil**” shall be substituted.
  4. In Order XXI in sub rule 1 of rule 31 of the Code of Civil Procedure, 1908 (Act No V of 1908) after the words “**detention in**” the word “**civil**” shall be substituted.
  5. In Order XXI in sub rule 1 of rule 32 of the Code of Civil Procedure, 1908 (Act No V of 1908) after the words “**detention in**” the word “**civil**” shall be substituted.
  6. In Order XXI in sub rule 2 of rule 32 of the Code of Civil Procedure, 1908 (Act No V of 1908) after the words “**detention in**” the word “**civil**” shall be substituted.
  7. In the heading after Order XXI rule 36 of the Code of Civil Procedure, 1908 (Act No V of 1908) after the words “**detention in**” the word “**civil**” shall be substituted.
  8. In Order XXI in sub rule 1 of rule 37 of the Code of Civil Procedure, 1908 (Act No V of 1908) after the words “**detention in**” the word “**civil**” shall be substituted.
  9. In Order XXI in sub rule 1 of rule 40 of the Code of Civil Procedure, 1908 (Act No V of 1908) after the words “**detained in**” the word “**civil**” shall be substituted.
  10. In Order XXI in sub rule 3 of rule 40 of the Code of Civil Procedure, 1908 (Act No V of 1908) after the words “**judgment-debtor in**” the word “**civil**” shall be substituted.
  11. In Order XXI in rule 98 of the Code of Civil Procedure, 1908 (Act No V of 1908) after the words “**detained in**” the word “**civil**” shall be substituted.
  12. In Order XXXVIII in rule 4 of the Code of Civil Procedure, 1908 (Act No V of 1908) after the words “**him to**” the word “**civil**” shall be substituted.
  13. In Order XXXIX in sub rule 3 of rule 2 of the Code of Civil Procedure, 1908 (Act No V of 1908) after the words “**detained in**” the word “**civil**” shall be substituted.



14. In Form 12 of Appendix E of the Code of Civil Procedure, 1908 (Act No V of 1908) after the words “**committed to the**” the word “**civil**” shall be substituted.
15. In Form 14 of Appendix E of the Code of Civil Procedure, 1908 (Act No V of 1908) after the words “**in to the**” the word “**civil**” shall be substituted.
16. In Form 41 of Appendix E of the Code of Civil Procedure, 1908 (Act No V of 1908) after the words “**committed to the**” the word “**civil**” shall be substituted.
17. In Form 4 of Appendix F of the Code of Civil Procedure, 1908 (Act No V of 1908) after the words “**committed to the**” the word “**civil**” shall be substituted.

Sr. No.	Proposed Amendments	Existing Provisions
5.	<i>Section 55.-(1) A judgment-debtor may be arrested in execution of a decree at any hour and on any day, and shall, as soon as practicable, be brought before the Court which may make an order for his detention in <b>civil</b> prison to suffer simple imprisonment for a period not exceeding one year;</i>	<i>Section 55.-(1) A judgment-debtor may be arrested in execution of a decree at any hour and on any day, and shall, as soon as practicable, be brought before the Court which may make an order for his detention in prison to suffer simple imprisonment for a period not exceeding one year;</i>
6.	<i>Section 56. Notwithstanding anything in this Part, the Court the arrest or detention in the <b>civil</b> prison execution of a decree for the payment of money</i>	<i>Section 56. Notwithstanding anything in this Part, the Court the arrest or detention in the prison execution of a decree for the payment of money.</i>
7.	<i>Order XXI Rule30. Every decree for the payment of money, including a decree for the payment of money as the alternative to some other relief, may be executed by the detention in <b>civil</b> prison of the judgment-debtor, or by the attachment and sale of his property, or by the both</i>	<i>Order XXI Rule30. Every decree for the payment of money, including a decree for the payment of money as the alternative to some other relief, may be executed by the detention in prison of the judgment-debtor, or by the attachment and sale of his property, or by the both.</i>
8.	<i>Order XXI Rule 31(1) Where the decree is for any specific movable, or for any share in a specific movable, it may be executed by the seizure, if practicable, of the movable or share, and by the delivery thereof to the party to whom it has been adjudged, or to such person as he appoints to receive</i>	<i>Order XXI Rule 31(1) Where the decree is for any specific movable, or for any share in a specific movable, it may be executed by the seizure, if practicable, of the movable or share, and by the delivery thereof to the party to whom it has been adjudged, or to such person as he appoints to receive delivery on his behalf, or by the detention</i>

	<i>delivery on his behalf, or by the detention in civil prison of the judgment-debtor, or by the attachment of his</i>	<i>in prison of the judgment-debtor, or by the attachment of his property, or</i>
9.	<i>Order XXI Rule 32(1) Where the party against whom a decree for the specific performance of a contract, or for restitution of conjugal rights, or for an injunction, has been passed, has had an opportunity of obeying the decree and has willfully failed to obey it the decree may be enforced [ in the case of a decree for restitution of conjugal rights by the attachment of his property or contract or for an injunction] by his detention in prison, or by the attachment of his property, or by both.</i>	<i>Order XXI Rule 32(1) Where the party against whom a decree for the specific performance of a contract, or for restitution of conjugal rights, or for an injunction, has been passed, has had an opportunity of obeying the decree and has willfully failed to obey it the decree may be enforced [ in the case of a decree for restitution of conjugal rights by the attachment of his property or, contract or for an injunction] by his detention in prison, or by the attachment of his property, or by both.</i>
10.	<i>Order XXI Rule 32(2) Where the party against whom a decree for specific performance or for an injunction has been passed is a corporation, the decree may be enforced by the attachment of the property of the corporation, or with the leave of the Court, by the detention in civil prison of the directors or other principal officers thereof or by both attachment and detention.</i>	<i>Order XXI Rule 32(2) Where the party against whom a decree for specific performance or for an injunction has been passed is a corporation, the decree may be enforced by the attachment of the property of the corporation, or with the leave of the Court, by the detention in prison of the directors or other principal officers thereof or by both attachment and detention.</i>
11.	<i>Order XXI Rule 37(1) Notwithstanding anything in these rules, where an application is for the execution of a decree for the payment of money by the arrest and detention in civil prison of a judgment-debtor who is liable to be arrested in pursuance of the application, the Court shall, instead of issuing a warrant for his arrest, issue a notice calling upon him to appear before the Court on a day to be specified in the notice and show cause why he should not be detained in prison.</i>	<i>Order XXI Rule 37(1) Notwithstanding anything in these rules, where an application is for the execution of a decree for the payment of money by the arrest and detention in prison of a judgment-debtor who is liable to be arrested in pursuance of the application, the Court shall, instead of issuing a warrant for his arrest, issue a notice calling upon him to appear before the Court on a day to be specified in the notice and show cause why he should not be detained in prison.</i>
12.	<i>Order XXI Rule 40(1) When a judgment-debtor appears before the Court in obedience to a notice issued under rule 37, or is brought before the</i>	<i>Order XXI Rule 40(1) When a judgment-debtor appears before the Court in obedience to a notice issued under rule 37, or is brought before the Court after being</i>

	<i>Court after being arrested in execution of a decree for the payment of money, the Court shall proceed to hear the decree-holder and take all such evidence as may be produced by him in support of his application for execution, and shall then give the judgment-</i>	<i>arrested in execution of a decree for the payment of money, the Court shall proceed to hear the decree-holder and take all such evidence as may be produced by him in support of his application for execution, and shall then give the judgment-</i>
13.	<i>Order XXI Rule 40(1) When a judgment-debtor appears before the Court in obedience to a notice issued under rule 37, or is brought before the Court after being arrested in execution of a decree for the payment of money, the Court shall proceed to hear the decree-holder and take all such evidence as may be produced by him in support of his application for execution, and shall then give the</i>	<i>Order XXI Rule 40(1) When a judgment-debtor appears before the Court in obedience to a notice issued under rule 37, or is brought before the Court after being arrested in execution of a decree for the payment of money, the Court shall proceed to hear the decree-holder and take all such evidence as may be produced by him in support of his application for execution, and shall then give the</i>
14.	<i>Order XXI Rule 40(3) Upon the conclusion of the inquiry under sub-rule (1) the Court may, subject to the provisions of section 51 and to the other provisions of this Code, make an order for the detention of the judgment-debtor in civil prison and shall in that event cause him to be arrested if he is not already under arrest:</i>	<i>Order XXI Rule 40(3) Upon the conclusion of the inquiry under sub-rule (1) the Court may, subject to the provisions of section 51 and to the other provisions of this Code, make an order for the detention of the judgment-debtor in prison and shall in that event cause him to be arrested if he is not already under arrest:</i>
15.	<i>Order XXI Rule 98. Where the Court is satisfied that the resistance or obstruction was occasioned without any just cause by the judgment-debtor or by some other person at his instigation it shall direct that the applicant be put into possession of the property and where the applicant is still resisted or obstructed in obtaining possession the Court may also at the instance of the applicant order the judgment-</i>	<i>Order XXI Rule 98. Where the Court is satisfied that the resistance or obstruction was occasioned without any just cause by the judgment-debtor or by some other person at his instigation it shall direct that the applicant be put into possession of the property and where the applicant is still resisted or obstructed in obtaining possession the Court may also at the instance of the applicant order the judgment-</i>
16.	<i>Order XXXVIII Rule 4. Where the defendant fails to comply with any order under rule 2 or rule 3, the Court may commit him to civil prison</i>	<i>Order XXXVIII Rule 4. Where the defendant fails to comply with any order under rule 2 or rule 3, the Court may commit him to prison until the</i>

**Final Draft for consideration of the Hon'ble Rules Committee (CPC) in relation to proposed Amendments in the First Schedule of the Code of Civil Procedure, 1908.**

The High Courts under **Article 202** of the **Constitution** of the Islamic Republic of Pakistan 1973 are empowered to make their own rules. Under **Chapter X**, the **Section 122** of the **Code of Civil Procedure 1908** specifically empowers High Courts to make rules regulating their own procedure and the procedure of the civil courts. This power is to be exercised by the **Rule Committee** constituted by the Chief Justice (**Section 123**). The rules so made shall be subject to the previous approval of the Provincial Government (**Section 126**) and shall be applicable from the date of publication in official gazette within local limits of the High Court which made them and shall form part of First Schedule of the said Code (**Section 127**).

Therefore, in order remove the bottlenecks, which are cause of delay in dispensation of justice and to secure substantial, speedy and least expensive dispensation of justice and to empower the Court to have the power to adopt lawful procedure not inconsistent with the provisions of this Code or any other law for the time being in force. The following amendments are proposed with the object of securing substantial, speedy and least expensive justice.

Whereas it is expedient further to amend the Code of Civil Procedure, 1908, for the purpose hereinafter appearing;

Sr. No.	Proposed Amendments	Existing Provisions
1.	<b>Amendments of Order I:</b>  <b>Amended Rule 11</b> <ul style="list-style-type: none"><li>• <i>“Conduct of suit.--The Court shall, at the time of framing of the issues, give the conduct of the suit to such party as it deems proper for ensuring a expeditious adjudication of the suit.”</i></li></ul>	Order I, Rule 11. <i>Conduct of suit.--The Court may give the conduct of the suit to such person as it deems proper.</i>
2.	<b>Amendments of Order II:</b>  <b>Rule 6-A has been added</b> <ul style="list-style-type: none"><li>• <i>“where two or more suits of the same nature and requiring determination of similar issues are pending in relation to the same subject matter, the Court may, if it considers</i></li></ul>	<i>New Rule 6-A has been added by incorporating provisions for consolidation of suit.</i>

	<p><i>expedient for avoiding multiplicity of litigation and conflicting judgments, Order their consolidation into one trial, whereupon all such suits shall be decided on the basis of a consolidated trial."</i></p>	
3.	<p><b>Amendments of Order IV:</b></p> <p><b>Rule 3 (1) &amp; (2) has been added</b></p> <ul style="list-style-type: none"> <li>• <i>"(1) Once the suit is registered in terms of Order IV, Rule 2 CPC, it shall immediately be placed before the Administrative Civil Judge duly notified by the Lahore High Court, who shall, after ensuring that the plaint and its annexures are in order, direct issuances of summons and processes to the other side. The administrative Judge shall be seized of the matter until the appearance of the parties is complete and all the ancillary pre-trial matters have been duly settled."</i></li> <li>• <i>"(2) During the time while the suit is with the Administrative Civil Judge, The Court shall at the request of the party(s), which it considers reasonable, place the matter before a Civil Judge, for passing of appropriate orders in relation to interim injunctions."</i></li> </ul>	<p><i>New Rule 3(1) &amp; (2) has been added in Order IV.</i></p>
4.	<p><b>Amendments of Order V:</b></p> <p><b>Amended Rule 2</b></p> <ul style="list-style-type: none"> <li>• <i>"Copy of statement annexed to summons.--(i) Every summons shall be accompanied by a copy of the plaint and all its annexures including the list of reliance under Order VII,</i></li> </ul>	<p>Order V, Rule 2.</p> <p><b>2. Copy of Statement Annexed to summons.-</b>  <i>-Every summons shall be accompanied by a copy of the plaint or, if so permitted, by a concise statement.</i></p>

<p><i>Rule 14, CPC</i></p> <ul style="list-style-type: none"> <li>• <i>“(ii) The summons shall also specify the date on which the issues are to be framed and shall also direct the defendant(s) to file written statement(s) prior thereto”</i></li> </ul> <p><b>Rule 2-A &amp; 2-B, may be added as follows:</b></p> <ul style="list-style-type: none"> <li>• <i>“(2-A) In case of failure of the plaintiff to append a copy of the plaint and documents with the summons, his suit shall stand dismissed in terms of Order IX, Rule 2, CPC.”</i></li> <li>• <i>“(2-B) If the defendant(s) having been properly served, fail(s) to submit their written statement prior to the date specified in the summons, it shall be presumed that the defendant(s) does not wish to defend the suit and accept the contents of the plaint as correct.</i></li> </ul> <p><i>Provided, however, nothing shall preclude the Court from granting extensions in time for filing of the written statement, upon a just and sufficient cause having been advanced justifying the delay, through an application in writing supported by an affidavit of the said defendant(s).</i></p> <p><i>Provided; further, that no extensions beyond a maximum period of 30 days shall, under any circumstances be granted to the defendants”</i></p> <p><b>Amended Rule 10-A:</b></p> <ul style="list-style-type: none"> <li>• <i>“Service by post.--(1) Simultaneously with the issuance of summons under Rule 9, there shall be sent, to the</i></li> </ul>	<p>Rule 2(ii) has been added</p> <p>Order V, Rule 2-A &amp; 2-B has been added.</p> <p><b>Rule 10-A</b>  <i>Service by post.--(1) Simultaneously, with the issue of summons under rule 9, there shall be sent, unless otherwise ordered by the court, to the defendant, by registered post, acknowledgement due, another copy of the summons signed and sealed in the manner provided in rule 10.</i></p>
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	<p>defendant(s), by Courier service or Urgent Mail Service of the Pakistan Post (UMS) and registered post, acknowledgment due, another copy of the summons signed and sealed in the manner as provided in Rule 10.”</p> <ul style="list-style-type: none"> <li>• “(2). An acknowledgment purported to be signed by the defendant of the receipt of the registered communication or an endorsement by a Courier messenger or postal employee that the defendant refused to receive the same shall be deemed by the Court issuing the summons to be prima facie proof of service of summons.”</li> </ul>	<p>(2) An acknowledgement purporting to be signed by the defendant of the receipt of the registered communication or an endorsement by a postal employee that the defendant refused to take delivery of the same shall be deemed by the Court issuing the summons to be prima facie proof of service of summons.</p>
5.	<p><b>Amendments of Order VII:</b> <b>Amended Rule 9</b></p> <ul style="list-style-type: none"> <li>• “1A(a) as many copies on plain paper of the plaint as there are defendants, plus two extra copies.”</li> </ul> <p><b>Amended Rule 11(d)</b></p> <ul style="list-style-type: none"> <li>• “(d). Where the suit appears from <u>the record available with the court</u> to be barred by any law”</li> </ul> <p>Sub-rule(2) shall be added:</p> <ul style="list-style-type: none"> <li>• “(2) a defendant shall not be allowed to submit a separate application for invoking the provisions of Order VII, Rule 11, prior to the filing of a written statement.”</li> </ul> <p><b>Amended Rule 13:</b></p> <ul style="list-style-type: none"> <li>• “Where rejection of plaint does not preclude presentation of fresh</li> </ul>	<p>Order VII, Rule 9(1A)(a) (a) as many copies on plain paper of the plaint as there are defendants, plus two extra copies, <del>unless the court, by reason of the length of the plaint or the number of defendants, or for any other sufficient reason, permits him to present a like number of concise statements of the nature of the claim made, or of the relief claimed in the suit, in which case he shall present such statements.</del></p> <p>Rule 11(d) (d) Where the suit appears from the statement in the plaint to be barred by any law.</p> <p>Rule 11, Sub-rule (2) shall be added.</p> <p>Rule 13 Where rejection of plaint does not preclude presentation of fresh plaint.-- The rejection</p>

	<p><i>plaint.--The rejection of the plaint on any of the grounds mentioned <b>in clauses a to c of Order VII, Rule 11</b>, shall not, of its own force, preclude the plaintiff to present a fresh plaint in respect of the same cause of action."</i></p> <p><b>Amended Rule 26:</b>  <b>After Rule 3, sub-rule (3), Amended sub-rule (4) shall be added in the following manner:</b></p> <ul style="list-style-type: none"> <li>• <i>"(4) failure of the plaintiff to file the list of legal representatives as aforesaid, shall render the suit liable to be dismissed in terms of Order IX, Rule 2, CPC"</i></li> </ul>	<p><i>of plaint on any of the grounds herein – before mentioned shall not of its own force preclude the plaintiff from presenting a fresh plaint in respect of the same cause of action.</i></p> <p>After Rule 3, sub-rule (3), Amended sub-rule (4) has been added.</p>
6.	<p><b>Amendments of Order VIII:</b>  <b>Rule 1(A) has been added</b></p> <ul style="list-style-type: none"> <li>• <i>"The defendant shall, at the time of submission of written statement in terms of Rule 1, shall, file with the court, copies of the written statement along with all its annexures along-with the list of reliance, so that the same should be supplied to the all the contesting parties."</i></li> </ul> <p><b>Amended Rule 13</b>  After sub-rule (3), the following sub-rules (4) &amp; (5) shall be added:</p> <ul style="list-style-type: none"> <li>• <i>"(4). In case the defendant fails to file a list of legal representatives, the Court shall, after giving one opportunity, to make up the deficiency, strike-off the <u>defence</u> of the defendant, in terms of Order VIII, Rule 10, CPC."</i></li> <li>• <i>"(5). The court may, on an application, along-with the requisite list of legal representatives, disclosing a sufficient cause for non-filing</i></li> </ul>	<p>Rule 1(A) has been added.</p> <p>Sub-rule (4) &amp; (5) have been added.</p>



	<p><i>thereof, may recall the order under sub-rule 4, and allow the defendant to continue with the defence of the suit."</i></p>	
7.	<p><b>Amendments of Order IX-A:</b>  Order IX-(A) is proposed to be amended as follows:  1.  (1) <i>After the pleadings have been duly submitted in Court, and at the time of framing the issues, the Court shall, after it has fixed the date for a continuous trial/recording of evidence of parties, undertake the following steps:</i></p> <p><i>"i. The Court shall fix a date for examination of the parties, in terms of Order X, CPC.</i></p> <p><i>ii. The Court shall also fix a date so as to ensure that necessary inspection and discovery is carried out as entailed by Order XI, CPC under its direct supervision.</i></p> <p><i>iii. The Court shall also fix another date for ensuring that necessary steps in relation to admittance of facts and documents in terms of Order XII CPC are also undertaken on the same date."</i></p> <p><b>Sub-rule (2):</b></p> <ul style="list-style-type: none"> <li>• <i>"(2). Nothing in sub-rule 1, shall prevent the Court from granting a maximum adjournment of 3 days of ensuring the completion of the process detailed above"</i></li> </ul> <p><b>Sub-rule (3):</b></p> <ul style="list-style-type: none"> <li>• <i>"(3). The Court shall maintain a comprehensive record of the proceedings undertaken in terms of sub-rule 1 &amp; 2 on the case</i></li> </ul>	<p>Order IX-A has entirely been redrafted for the purpose of case management issues.</p>

*management questionnaire available in Appendix \_\_\_\_, CPC"*

**Sub-rule (4):**

- *"(4). The Court shall assume a proactive role in conducting the proceedings under Order IX-A, with the purpose of ensuring that all unnecessary and frivolous allegations, counter-allegations, and documents are excluded from consideration and the parties are put to Trial in relation to the exact dispute between themselves."*

**Sub-rule (5):**

- *"(5). While carrying out the proceedings under this rule, the court shall carefully assess, if there is a possibility of adoption of either of the ADR process and if necessary refer the matter for such resolution in terms of Section 89-A, CPC."*

**Rule 2 is proposed to be added as follows:**

*\*\* "(1). The plaintiff shall, along with the plaint, file a duly filled case management questionnaire as provided in Appendix \_\_\_\_\_.*

*(2). The defendant(s) shall, at the time of filing of the written statement, file a duly filled case management questionnaire as provided in Appendix \_\_\_\_\_"*

*\*\* "(3). Where the Court, after making an assessment in terms of Rule 1(5), is satisfied, that the dispute between the parties has a reasonable chance of being settled by adoption of any of the Alternative Dispute Resolution mechanism, the Court seized of the matter shall stay the proceedings of the*

	<p><i>suit for a period of not more than 30 days while requiring the parties to adopt any of such Alternative Dispute Resolution mechanism, as the Court may deem fit.”</i></p>	
<p>8.</p>	<p><b>Order IX-B Added</b></p> <p>1. <b>Reference to Mediation:</b> (1). Where it appears to the Court that there exist elements of a settlement which may be acceptable to the parties, it shall refer every civil nature for mediation except where the Court, having regard to the facts and circumstances of the case, is satisfied that there is no possibility of resolution of the dispute through mediation; or an intricate question of law or facts is involved.</p> <p>(2). While referring the matter for mediation, the referring court may point out the material points for determination to facilitate the mediator.</p> <p>2. <b>Appearance of Parties:</b> Upon referring the matter for mediation, the Court shall direct the parties to appear before the Mediation Centre set up by the Lahore High Court, on the date and time fixed by it.</p> <p>3. <b>Settlement:</b> (1) If as a result of the mediation a settlement is reached between the parties, the Mediator shall record such settlement, duly witnessed and signed by him and by the parties or their duly authorized representatives or advocates and submit it to the Court through the Administrator of the Centre which shall pronounce judgment or pass decree or an order in terms of the settlement.</p> <p>(2) If the settlement relates only to part of the dispute, the Court shall pass judgment or decree or an order in terms of such settlement, while adjudicating upon the remaining part.</p> <p>4. <b>Failure of Mediation:</b> If the efforts of the Mediator fail to bring about a settlement between the parties, the Mediator shall submit a report to the Court which shall proceed with the case from the stage it was referred for the mediation.</p>	

	<p><b>5. In case of settlement:</b> (1) In case the mediation proceedings are successful and the parties have arrived at an agreement, the mediator shall cause the same to be recorded in writing, signed by the parties and by at least two independent witnesses.</p> <p>(2). The Agreement finally prepared in terms of sub rule (1) shall also be certified by the mediator and transmitted to the Court forthwith.</p> <p>3). The court shall, on receipt of the Agreement between the Parties, pass a Decree in terms thereof unless, it for the reasons to be recorded finds that the Agreement between the parties is not enforceable under the law.</p>	
<p>8.</p>	<p><b>Amendments of Order XI:</b></p> <p><b>Amended Rule 1:</b></p> <ul style="list-style-type: none"> <li>• <i>“1. The court shall, on fixing a date under Order IX-A, direct the parties to deliver interrogatories in writing for the examination of the opposite parties or any one or more of such parties stating clearly as to which of such interrogatories is to be answered by whom.</i></li> </ul> <p><i>Provided that it shall be within the powers of the Court to reject an interrogatory or a part thereof, if it is of the considered opinion that it is irrelevant.”</i></p> <p><b>Amended Rule 2:</b></p> <ul style="list-style-type: none"> <li>• <i>“2. Once the requisite interrogatories are submitted in the Court, the Court shall, ensure that the same are delivered to the opposite side, prior to the date under Order IX-A, so that the opposite side should be ready to respond to the same at the appropriate</i></li> </ul>	<p>Rule 1:</p> <p><i>1. In any suit the plaintiff or defendant by leave of the Court may deliver interrogatories in writing for the examination of the opposite-parties or any one or more of such parties, and such interrogatories when delivered shall have a note at the foot thereof stating which of such interrogatories each of such persons is required to answer: Provided that no party shall deliver more than one set of interrogatories to the same party without any order for that purpose: Provided also that interrogatories which do not relate to any matters in question in the suit shall be deemed irrelevant, notwithstanding that they might be admissible on the oral cross-examination of a witness.</i></p> <p>Rule 2:</p> <p><i>2. On an application for leave to deliver interrogatories, the particular interrogatories proposed to be delivered shall be submitted to the Court. In deciding upon such application, the Court shall take into account any offer, which may be made by the party sought to be interrogated to deliver particulars or to make admissions or to produce documents relating to the matters in question, or any of them, and leave shall</i></p>

<p>time.”</p> <p><b>Amended Rule 3:</b></p> <ul style="list-style-type: none"> <li>• “3. If a party to a suit deliberately avoids to answer the interrogatories addressed to it, it shall be lawful for the Court to proceed against it in terms of Rule 21 of this Order.”</li> </ul> <p><b>Amended Rule 8:</b></p> <ul style="list-style-type: none"> <li>• “8. The interrogatories shall be answered by an affidavit to be filed prior to the date fixed for proceedings under Order IX-A”</li> </ul> <p><b>Amended Rule 11:</b></p> <ul style="list-style-type: none"> <li>• “11. Where any person interrogated, submits an insufficient or an evasive reply, the Court may at the time of carrying out proceedings under Order IX-A, require him to submit a proper answer forthwith, failing which the provisions of Order XI, Rule 3 shall become applicable viz the said party”</li> </ul> <p><b>Amended Rule 12:</b>  <b>Sub-rule (1) &amp; (2) has been added to Rule 12.</b></p>	<p><i>be given as to such only of the interrogatories submitted as the Court shall consider necessary either for disposing fairly of the suit or for saving costs.</i></p> <p><b>Rule 3:</b>  <i>3. In adjusting the costs of the suit inquiry shall at the instance of any party be made into the propriety of exhibiting such interrogatories and if it is the opinion of the taxing officer or of the Court, either with or without an application for inquiry, that such interrogatories have been exhibited unreasonably, vexatiously, or at improper length, the costs occasioned by the said interrogatories and the answers thereto shall be paid in any event by the party in fault.</i></p> <p><b>Rule 8:</b>  <i>8. Interrogatories shall be answered by affidavit to be filed within ten days, or within such other time as the Court may allow.</i></p> <p><b>Rule 11:</b>  <i>11. Where any person interrogated omits to answer, or answers insufficiently, the party interrogating may apply to the Court for an order requiring him to answer or to answer further, as the case may be. And an order may be made requiring him to answer or answer further, either by affidavit or by viva voce examination, as the Court may direct.</i></p>
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	<ul style="list-style-type: none"> <li>“(1). Similarly, before the date fixed for proceedings under Order IX-A, the parties to the suit shall apply for discovery of the documents on oath, which are or have been in the possession or power of a contesting party.”</li> <li>(2). The Court may after being satisfied as to the genuineness of the prayer made, pass appropriate orders to the concerned party, requiring it to produce the requisite document at the time of proceedings under Order IX-A for its inspection by the applicant.”</li> </ul>	<p><b>Sub-rule (1) &amp; (2) of Rule 12 have been added.</b></p>
9.	<p><b>Amendment of Order XII: Amended Rule 1:</b></p> <ul style="list-style-type: none"> <li>“1. the court shall while proceeding under Order IX-A, put it to the parties if they admit the truth, of the whole or part of the case, set-up by the other side in their pleadings.”</li> </ul> <p><b>Sub-rule (1) &amp; (2) of Order VII, Rule 2 has been added:</b></p> <ul style="list-style-type: none"> <li>“(1). the court shall also, require the parties to the suit, to admit or deny the documents annexed with the plaint or the written statement as the case maybe.</li> <li>(2). In case despite being so required, a party refuses to answer, the Court may proceed against it in terms Order XI, Rule 21 CPC.</li> </ul> <p>Provided further, the denial of a document is found by the Court to be contumacious, the Court shall burden the defaulting party with heavy costs.”</p>	<p>Rule 1: 1. Any party to a suit may give notice, by his pleading or otherwise in writing, that he admits the truth of the whole or any part of the case of any other party.</p> <p>Rule 2: 2. Either party may call upon the other party to admit any document, saving all just exceptions; and in case of refusal or neglect to admit, after such notice, the costs of proving any such document shall be paid by the party so neglecting or refusing, whatever the result of the suit may be, unless the Court otherwise directs; and no costs of proving any document shall be allowed unless such notice is given, except where the omission to give the notice is in the opinion of the Court a saving of expense.</p> <p><b>Sub-rule (1) &amp; (2) of Rule 2 have been added.</b></p>
10.	<p><b>Amendments of Order XIV: Amended Sub-rule (5) of Rule 1:</b></p> <ul style="list-style-type: none"> <li>“(5) At the first hearing of the suit,</li> </ul>	<p>Sub-rule 5 of Rule 1: (5) At the first hearing of the suit the Court</p>

	<p><i>after all proceedings in terms of Order IX-A have been undertaken, the Court shall after examining the plaint, the written statement(s), and such parties as may be necessary, determine the material proposition of fact or of law, upon which the parties are at variance and shall thereupon proceed to frame and record the issues on which the right decision of the case appears to depend."</i></p>	<p><i>shall, after reading the plaint and the written statements, if any, and after such examination of the parties as may appear necessary, ascertain upon what material propositions of fact or of law the parties are at variance, and shall thereupon proceed to frame and record the issues on which the right decision of the case appears to depend.</i></p>
11.	<p><b>Amendments of Order XVI: Amended Sub-rule (1) of Rule 1:</b></p> <ul style="list-style-type: none"> <li>• <i>"(1). Immediately after framing of the issues, the Court shall require the parties to file a list of witnesses, not later than seven (7) days, and shall fix a date for filing of the same in the Court."</i></li> </ul> <p>In Sub Rule 2, the words "or produce" between the words call and witnesses, as added by the Lahore High Court amended dated 02-10-2001 shall be deleted and consequently amendment Sub-rule 2 shall be read as under:</p> <ul style="list-style-type: none"> <li>• <i>"(2) A party shall not be permitted to call witnesses other than those contained in the said list, except with the permission of the Court and after showing good cause for the omission of permission, it shall record reasons for so doing."</i></li> </ul>	<p>Sub-rule (1) of Rule 1: <i>(1) Not later than seven days after the settlement of issues, the parties shall present in Court a [certificate of readiness to produce evidence along-with a] list of witnesses whom they propose to call either to give evidence or to produce documents.</i></p> <p><b><u>As amended by Lahore High Court Amendment dated 02-10-2001.</u></b></p> <p><i>(2) A party shall not be permitted to call '<b>or produce</b>' witnesses other than those contained in the said list, except with the permission of the Court and after showing good cause for the omission of permission, it shall record reasons for so doing.</i></p>
12.	<p><b>Amendments of Order XX: Amended Sub-rule (1) &amp; (2) of Rule 1:</b></p> <ul style="list-style-type: none"> <li>• <i>"(1) On completion of evidence the court, shall fix a date not exceeding fifteen (15) days for submission of "Skeleton of arguments / case-law" relied upon by the parties.</i></li> </ul>	<p>Sub-rule (1) &amp; (2) of Rule 1: <i>(1) On completion of evidence, the Court, shall fix a date. Not exceeding fifteen days, for hearing of arguments of parties.</i></p>

	<p>(2) <i>The Court after submission of "Skeleton of arguments" / case-law and after hearing oral submissions, if it so requires, fix a date not exceeding 7 days for announcement of the judgment. The said date shall be duly intimated to the parties and or their advocates at the same time."</i></p> <p><b>Sub-Rule 3 of Rule 1 added:</b></p> <ul style="list-style-type: none"> <li>• <i>"(3). The Court shall, at the time of pronouncement of the judgment provide the parties, at their expense, with a duly attested copy of the judgment and the consequent decree enabling them to file an appeal, if so desired, within the stipulated period of limitation"</i></li> </ul> <p><b>Rule 20 of Order XX shall be deleted.</b></p>	<p>(2) <i>The Court shall, after the case has been heard, pronounce judgment in open Court, either at once or on some future day not exceeding thirty days, for which due notice shall be given to the parties or their advocates.</i></p> <p><b>Sub-Rule 3 of Rule 1 added</b></p> <p>20. <i>Certified copies of the judgment and decree shall be furnished to the parties on application to the Court and at their expense.</i></p>
13.	<p><b>Amendments of Order XXI:</b></p> <p><b>Amended Rule 10:</b></p> <ul style="list-style-type: none"> <li>• <i>"10. Upon announcement of an executable decree by any Court, the Suit shall automatically stand converted into execution proceedings without the need to file a formal/separate application and without issuance of a fresh notice to the judgment debtor in this regard"</i></li> </ul> <p><b>Amended Rule 11:</b></p> <ul style="list-style-type: none"> <li>• <i>"11. At the time of the initiation of execution proceedings, the Court shall order the attachment of all known assets of the judgment debtor, if such assets have not already been</i></li> </ul>	<p>Rule 10:</p> <p><i>10. <b>Application for execution.</b>--Where the holder of a decree desires to execute it, he shall apply to the Court which passed the decree to or the officer (if any) appointed in this behalf, or if the decree has been sent under the provisions hereinbefore contained to another Court then to such Court or to the proper officer thereof.</i></p> <p>Rule 11:</p> <p><i>11. (1) Where a decree is for the payment of money the Court may, on the oral application of the decree-holder at the time of the passing of the decree, order immediate execution thereof by the arrest of the judgment-debtor prior to the preparation of a</i></p>



	<p><i>attached in pursuance of Order XXXVIII."</i></p> <p><b>The Sub-rule (2) of Rule 11 shall be deleted.</b></p> <p><b>Rule 17 shall be deleted.</b></p>	<p><i>warrant if he is within the precincts of the Court.</i></p> <p><i>(2) Save as otherwise provided by sub-rule (1), every application for the execution of a decree shall be in writing, signed and verified by the applicant or by some other person proved to the satisfaction of the Court to be acquainted with the facts of the case, and shall contain in a tabular form the following particulars, namely...</i></p> <p><b>17. Procedure on receiving application for execution of decree.--</b><i>(1) On receiving an application for the execution of a decree as provided by rule 11, sub-rule (2), the Court shall ascertain whether such of the requirements of rules 11 to 14 as may be applicable to the case have been complied with; and if they have not been complied with, the Court may reject the application, or may allow the defect to be remedied then and there or within a time to be fixed by it.</i></p> <p><i>(2) Where an application is amended under the provisions of sub-rule (1), it shall be deemed to have been an application in accordance with law and presented on the date when it was first presented.</i></p> <p><i>(3) Every amendment made under this rule shall be signed or initialed by the Judge.</i></p> <p><i>(4) When the application is admitted, the Court shall enter in the proper register a note of the application and the date on which it was made, and shall, subject to the provisions hereinafter contained, order execution of the decree according to the nature of the application:</i></p> <p><i>Provided that, in the case of decree for the payment of money, the value of the property attached shall, as nearly as may be, correspond with the amount due under the decree.</i></p> <p><b>23. Procedure after issue of notice.--</b><i>(1) Where the person to whom notice is issued under the last preceding rule does not</i></p>
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	<p><b>Rule 23 shall be deleted.</b></p> <p><b>Amended Rule 23-A:</b></p> <ul style="list-style-type: none"> <li>• <i>“23-A. Deposit of decretal amount, etc.--An objection by the judgment-debtor to the execution of a decree shall not be considered by the Court unless--</i> <ul style="list-style-type: none"> <li><i>(a) in the case of a decree for the payment of money, he either deposits the decretal amount in Court or furnishes security, <u>to the satisfaction of the Court</u>, for its payment; and</i></li> <li><i>(b) in the case of any other decree, he furnishes security <u>to the satisfaction of the Court</u> for the due performance of the decree.”</i></li> </ul> </li> </ul> <p><b>Rule 29 shall be deleted.</b></p>	<p><i>appear or does not show cause to the satisfaction of the Court why the decree should not be executed, the Court shall order the decree to be executed.</i></p> <p><i>(2) Where such person offers any objection to the execution of the decree, the Court shall consider such objection and make such order as it thinks fit.</i></p> <p><b>23-A. Deposit of decretal amount, etc.--</b><i>An objection by the judgment-debtor to the execution of a decree shall not be considered by the Court unless –</i></p> <ul style="list-style-type: none"> <li><i>a) in case of a decree for the payment of money, he either deposits the decretal amount in Court or furnishes security for its payment; and</i></li> <li><i>b) in the case of any other decree, he furnishes security for the due performance of the decree.</i></li> </ul> <p><b>29.</b> <i>Where a suit is pending in any Court against the holder of a decree of such Court, on the part of the person against whom the decree was passed, the Court may, on such terms as to security or otherwise, as it thinks fit, stay execution of the decree until the pending suit has been decided.</i></p> <p><b>32. (1)</b> <i>Where the party against whom a decree for the specific performance of a contract, or for restitution of conjugal rights, or for an injunction, has been passed, has had an opportunity of obeying the decree and has willfully failed to obey it the decree may be enforced [ in the case of a decree for restitution of conjugal rights by the attachment of his property or, in the case of a</i></p>
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<p><b>Amended Sub-rule (1) of Rule 32:</b></p> <ul style="list-style-type: none"> <li>• The words “for restitution of conjugal rights” shall stand deleted</li> </ul> <p><b>Rule 33 shall be deleted.</b></p> <p><b>Amended Rule 36</b>  <b>Following Proviso has been added to Rule 36.....</b></p> <ul style="list-style-type: none"> <li>• <u>Provided that no such right of a tenant or other person, shall be protected in case(s) where the tenant or the other person has entered into possession of the immovable property subsequent to the institution of the suit wherein the decree has been passed.</u></li> </ul> <p><b>Amended Rule 37</b></p> <ul style="list-style-type: none"> <li>• “37. Discretionary power to allow judgment-debtor an opportunity to show good cause against detention in prison--(1)</li> </ul>	<p><i>decree for the specific performance of a contract or for an injunction] by his detention in [....]prison, or by the attachment of his property, or by both.</i></p> <p><b>Rule 33.</b>  <b><i>Discretion of Court in executing decrees for restitution of conjugal rights.—</i></b></p> <p>Rule 36:  <i>36. Where a decree is for the delivery of any immovable property in the occupancy of a tenant or other person entitled to occupy the same and not bound by the decree to relinquish such occupancy, the Court shall order delivery to be made by affixing a copy of the warrant in some conspicuous place on the property, and proclaiming to the occupant by beat of drum or other customary mode, at some convenient place, the substance of the decree in regard to the property.</i></p> <p><i>37. (1) Notwithstanding anything in these rules, where an application is for the execution of a decree for the payment of money by the arrest and detention in [.....] prison of a judgment-debtor who is liable to be arrested in pursuance of the application, the Court [shall, instead of issuing a warrant for his arrest, issue a notice calling upon him to appear before the Court on a day to be specified in the notice and show cause why he should not be [detained in] prison.</i></p>
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	<p>Notwithstanding anything in these rules, where the execution of a decree for the payment of money is sought to be executed through arrest and detention in <sup>1</sup>[ ] prison of a judgment-debtor, the Court <sup>1</sup>[may] before issuing a warrant of arrest, provide one opportunity to the judgment-debtor to show good cause as to why he should not be <sup>3</sup>[detained in] prison:</p> <p><sup>2</sup>[Provided that such opportunity shall not be necessary if the Court is satisfied, by affidavit, or otherwise, that, with the object or effect of delaying the execution of the decree, the judgment-debtor is likely to abscond or leave the local limits of the jurisdiction of the Court.]</p> <p>(2) Where the judgment-debtor fails to avail the opportunity or is unable to show a good cause, the Court shall, if the decree holder so requires, issue a warrant for the arrest of the judgment-debtor."</p> <p><b>Amended Rule 40(1), (2) &amp; (3):</b></p> <p><b>40. Proceedings on appearance of judgment-debtor by availing the opportunity for showing good cause or after arrest.--</b>(1) Where a judgment-debtor avails the opportunity provided under Rule 37, or is brought before the Court after being arrested in execution of a decree for the payment of money, the Court shall give the judgment-debtor an opportunity of showing good cause why he should not be <sup>2</sup>[detained in] prison.</p> <p><b>(2) Deleted</b></p>	<p>[Provided that such notice shall not be necessary if the Court is satisfied, by affidavit, or otherwise, that with the object or effect of delaying the execution of the decree, the judgment-debtor is likely to abscond or leave the local limits of the jurisdiction of the Court.]</p> <p>(2) Where appearance is not made in obedience to the notice, the Court shall, if the decree-holder so requires, issue a warrant for the arrest of the judgment-debtor.</p> <p>Rule 40:</p> <p><b>40. Proceedings on appearance of judgment-debtor in obedience to notice or after arrest.--</b>(1) When a judgment-debtor appears before the Court in obedience to a notice issued under rule 37, or is brought before the Court after being arrested in execution of a decree for the payment of money, the Court shall proceed to hear the decree-holder and take all such evidence as may be produced by him in support of his application for execution, and shall then give the judgment-debtor an opportunity of showing cause why he should not be [detained in] prison.</p> <p>(2) Pending the conclusion of the inquiry under sub-rule (1) the Court may, in its discretion, order the judgment-debtor to be detained in the custody of an officer of the Court or release him on his furnishing security to the satisfaction of the Court for his appearance when required.</p> <p>(3) Upon the conclusion of the inquiry under sub-rule (1) the Court may, subject to the provisions of section 51 and to the other provisions of this Code, make an order for the detention of the judgment-debtor in [...] prison and shall in that event cause him to be arrested if he is not already under arrest:</p>
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	<p>(3) If the judgment-debtor fails to show good cause under rule 37 and sub-rule 40(1) the Court may, subject to the provisions of section 51 and to the other provisions of this Code, make an order for the detention of the judgment-debtor in <sup>3</sup>[-] prison and shall in that event cause him to be arrested if he is not already under arrest:</p> <p><b>Amended Rule 54:</b></p> <p><b>54. Attachment of immovable property.--</b>(1) Where the property is immovable, the attachment shall be made by an order prohibiting the judgment-debtor from transferring or charging the property in any way, and all persons from taking any benefit from such transfer or charge <u>and any such transfer, charge, alienation, encumbrance or other disposition in violation of this rule shall be void and of no legal effect.</u></p> <p>(2) The order of attachment shall be intimated to the concerned authority maintaining the record of ownership / transfers of the subject property in addition to proclamation of the order at some place on or adjacent to such property by beat of drum or other customary mode, and a copy of the order shall be affixed on a conspicuous part of the property and then upon a conspicuous part of the Court-house, and also, where the property is land paying revenue to the Government, in the office of the Collector of the district in which the</p>	<p>54. Attachment of immovable property.--(1) Where the property is immovable, the attachment shall be made by an order prohibiting the judgment-debtor from transferring or charging the property in any way, and all persons from making any benefit from such transfer or charge.</p> <p>(2) The order shall be proclaimed at some place on or adjacent to such a property by beat of drum or other customary mode, and a copy of the order shall be affixed on a conspicuous part of the property and then upon a conspicuous part of the Court-house, and also, where the property is land paying revenue to the Government, in the office of the Collector of the district in which the land is situate.</p> <p>Rule 58:</p> <p>58. Investigation of claims to, and objections to attachment of, attached property.--(1).....</p> <p>[Provided that no such investigation shall be made where it appears to the Court that the claim or objection (whether made before or after the sale) has been designedly or unnecessarily delayed, or was not made</p>
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<p>land is situate.</p> <p><b>Amended Rule 58:</b>  <b>58. Investigation of claims to, and objections to attachment of, attached property.--(1).....</b></p> <p><sup>1</sup>[Provided that no such investigation shall be made where it appears to the Court that the claim or objection (whether made before or after the sale) has been designedly or unnecessarily delayed, or was not made within a <b>period of 30 days</b> of the date of the first attachment of the said property in the execution of the said decree, whichever is earlier, unless the claimant or objector:-  (a).....  (b).....</p> <p><b>Amended Rule 66</b>  <b>66. Proclamation of sales by public auction--(1)</b> Where any property is ordered to be sold by public auction in execution of a decree, the Court shall cause a proclamation of the intended sale to be made in the language of such Court.  (2) Such proclamation shall be drawn up by the Court Auctioneer appointed by the Court on the basis of the evaluation of the property to be conducted by an evaluator appointed by the Court, amongst the evaluators approved by Pakistan Banker's Association. The Court shall determine the Reserve Price of the Property after having received the evaluation report and proposed proclamation of sale. Proclamation of sale approved by the Court shall state the time and place of sale, and specify</p>	<p>within a reasonable time or within one year of the date of the first attachment of the said property in the execution of the said decree, whichever is earlier, unless the claimant or objector –</p> <p><b>Rule 66:</b>  <b>66. Proclamation of sales by public auction-- (1)</b> Where any property is ordered to be sold by public auction in execution of a decree, the Court shall cause a proclamation of the intended sale to be made in the language of such Court.  (2) Such proclamation shall be drawn up after notice to the decree-holder and the judgment-debtor and shall state the time and place of sale, and specify as fairly and accurately as possible –</p> <p>a) the property to be sold;  b) the revenue assessed upon the estate or part of the estate, where the property to be sold is an interest in an estate or in part of an estate paying revenue to the Government;  c) any encumbrance to which the property is liable;  d) the amount for the recovery of which the</p>
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<p>as fairly and accurately as possible -</p> <p>(a) the property to be sold;</p> <p>b) the revenue assessed upon the estate or part of the estate, where the property to be sold is an interest in an estate or in part of an estate paying revenue to the Government;</p> <p>(c) any encumbrance to which the property is liable;</p> <p>(d) the amount for the recovery of which the sale is ordered; and</p> <p>(e) every other thing which the Court considers material for a purchaser to know in order to judge of the nature and value of the property.</p> <p><b>(3). Deleted</b></p> <p>(4) For the purpose of ascertaining the matters to be specified in the proclamation, the Court may summon any person whom it thinks necessary to summon and may examine him in respect to any such matters and require him to produce any document in his possession or power relating thereto.</p> <p><b>Sub-rule (5), (6) &amp; (7) have been added</b></p> <p>(5). The Proclamation of the sale shall be advertised through affixation of the proclamation posters at the site and surroundings of the Property as well as at the Court house, which ordered for sale of the Property. Where the Reserve Price determine by the Court</p>	<p>sale is ordered; and</p> <p>e) every other thing which the Court considers material for a purchaser to know in order to judge of the nature and value of the property.</p> <p>(3) Every application for an order for sale under this rule shall be accompanied by a statement signed and verified in the manner hereinbefore prescribed for the signing and verification of pleadings and containing, so far as they are known to or can be ascertained by the person making the verification, the matters required by sub-rule (2) to be specified in the proclamation.</p> <p>(4) For the purpose of ascertaining the matters to be specified in the proclamation, the Court may summon any person whom it thinks necessary to summon and may examine him in respect to any such matters and require him to produce any document in his possession or power relating thereto.</p> <p><b>Sub-rule (5), (6) &amp; (7) have been added</b></p>
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	<p><i>is more than Rs. 2,000,000/- (Rupees two million), the proclamation shall also be caused through publication in at-least one widely circulated newspaper.</i></p> <p><i>Provided the advertisement of the sale of the property may also be carried out through any other mode, which in the opinion of the court auctioneer, adds to the effective advertisement for a just and fair conduct of auction.</i></p> <p><b>(6).</b> <i>The Court Auctioneer shall cause the recording of the video footage of the Auction Proceedings while ensuring the transparency and fair bidding process in compliance of the approved Proclamation of Auction.</i></p> <p><b>(7).</b> <i>A notice of the sale of the Property shall be given to the Judgment Debtor with an option to match the highest bid within 15 days of the auction/sale of the Property and the Judgment Debtor, within 15 days, will have the first right of refusal to purchase the property at the highest bid offered by a bidder.</i></p> <p><b>Rule 70 shall be deleted.</b></p> <p><b>Amended Rule 72:</b>  <i>“Decree holder may bid to buy property in auction--(1) The holder of a decree in execution of which the property is sold may participate in the auction of the property and for that purpose make a bid for purchase of a property.</i>  <b>(2) Where decree holder purchases, amount of decree may be taken as payment--</b> <i>Where a decree-holder</i></p>	<p><b>Rule 70:</b>  <i>70. Nothing in rules 66 to 69 shall be deemed to apply to any case in which the execution of a decree has been transferred to the Collector.</i></p> <p><b>Rule 72:</b>  <i>72. (1) No holder of a decree in execution of which property is sold shall, without the express permission of the Court, bid for or purchase the property.</i></p> <p><i>(2) Where a decree-holder purchases with such permission, the purchase-money and the amount due on the decree may, subject to the provisions of section 73, be set-off against one another, and the Court executing the decree shall enter up satisfaction of the decree in whole or in part accordingly.</i></p> <p><i>(3) Where a decree-holder purchases, by himself or through another person, without such permission the Court may, if it thinks fit,</i></p>
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	<p><i>purchases the property, the purchase-money and the amount due on the decree may, subject to the provisions of section 73, be set-off against one another, and the Court executing the decree shall enter up satisfaction of the decree in whole or in part accordingly."</i></p> <p><b>Sub-Rule 3 shall be deleted.</b></p> <p><b>Rule 78 shall be deleted.</b></p> <p><b>Amended Rule 84:</b>  <i>84. Deposit by purchaser and re-sale on default -- (1) On every sale of immovable property the person declared to be the purchaser, shall pay to the officer or other person conducting the sale the amount equal to Reserve Price of the Property through Pay Order / Bank Draft / Banker's Cheque immediately after such declaration and on default of such deposit the property shall forthwith be resold.  (2) Where the decree holder is the purchaser and is entitled to set off the</i></p>	<p><i>on the application of the judgment-debtor or any other person whose interests are affected by the sale, by order set aside the sale; and the costs of such application and order, and any deficiency of price which may happen on the re-sale and all expenses attending it, shall be paid by the decree-holder.</i></p> <p>Rule 78:  <i>78. No irregularity in publishing or conducting the sale of movable property shall vitiate the sale; but any person sustaining any injury by reason of such irregularity at the hand of any other person may institute a suit against him for compensation or (if such other person is the purchaser) for the recovery of the specific property and for compensation in default of such recovery.</i></p> <p>Rule 84:  <i>84. Deposit by purchaser and re-sale on default.--(1) On every sale of immovable property the person declared to be the purchaser shall pay immediately after such declaration a deposit of twenty-five per cent. On the amount of his purchase money to the officer or other person conducting the sale and in default of such deposit the property shall forthwith be resold.</i></p> <p><i>(2) Where the decree holder is the purchaser and is entitled to set off the purchase-money under rule 12, the Court may dispense with the requirements of this rule.</i></p> <p>Rule 89:  <i>89. Application to set aside sale on deposit -- (1) Where immovable property has been sold in execution of a decree, any person either owning such property or holding an interest therein by virtue of a title acquired before</i></p>
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<p><i>purchase-money under rule 12, the Court may dispense with the requirements of this rule.</i></p> <p><b>Amended Rule 89:</b></p> <p><b>89. Application to set aside sale on deposit --</b> (1) <i>Where immovable property has been sold in execution of a decree, any person either owning such property or holding a valid title by virtue of a title acquired before such sale may apply to have the sale set aside on his depositing in Court, -</i></p> <p><i>(a) for payment to the purchaser a sum equal to five per cent of the purchase money; and</i></p> <p><i>(b) for payment to the decree holder the amount specified in the proclamation of sale as that for the recovery of which the sale was ordered less any amount which may since the date of such proclamation of sale have been received by the decree holder.</i></p> <p><b>Provided that no application under this rule shall be entertained unless the applicant deposits in Court the amount specified in the proclamation of the sale along-with a sum equal to five per cent of the purchase money.</b></p> <p><i>(2) Where a person applied under rule 90 to set aside the sale of his immovable property he shall not unless he withdraws his application be entitled to make or prosecute an application under this rule.</i></p> <p><i>(3) Nothing in this rule shall relieve the judgement-debtor from any liability he may be under in respect of costs and interest not covered by the proclamation of sale.</i></p>	<p><i>such sale may apply to have the sale set aside on his depositing in Court, -</i></p> <p><i>a) for payment to the purchaser a sum equal to five per cent of the purchase money; and</i></p> <p><i>b) for payment to the decree holder the amount specified in the proclamation of sale as that for the recovery of which the sale was ordered less any amount which may since the date of such proclamation of sale have been received by the decree holder.</i></p> <p><b>Proviso to Sub-rule (1) of Rule 89 has been added.</b></p> <p><i>(2) Where a person applied under rule 90 to set aside the sale of his immovable property he shall not unless he withdraws his application be entitled to make or prosecute an application under this rule.</i></p> <p><i>(3) Nothing in this rule shall relieve the judgement-debtor from any liability he may be under in respect of costs and interest not covered by the proclamation of sale.</i></p> <p><b>Sub-rule (4) of Rule 89 has been added.</b></p> <p>Rule 90.....</p> <p><i>[Provided also that no such application shall be entertained unless the applicant deposits such amount not exceeding <b>twenty</b> per cent of the sum realized at the sale or furnishes</i></p>
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	<p><i>(4) An application filed under this rule shall be decided within thirty (30) days of the filing of the application.</i></p> <p><b>Amended Proviso of Rule 90:</b>  <i>[Provided also that no such application shall be entertained unless the applicant deposits such amount not exceeding <b>fifty</b> per cent of the sum realized at the sale or furnishes such security as the Court may direct]</i></p>	<p><i>such security as the Court may direct]</i></p>
14.	<p><b>Amendment of Order XXIII:</b>  <b>Amended Sub-rule (2) of Rule 1:</b>  <i>“(2) Where the Court is satisfied, <u>for the reasons to be recorded....”</u></i></p>	<p>Rule 1(1).....  <i>(2) Where the Court is satisfied -</i></p>
15.	<p><b>Amendments of Order XXXII:</b>  <b>Amended Rule 2:</b></p> <ul style="list-style-type: none"> <li>• <i>“(1) Where a suit is instituted by or on behalf of a minor without a next friend, the Court may on such fact coming to its notice allow an opportunity to remedy the defect.</i></li> <li>• <i>(2) The Court may, on an application of the defendant, or of his own motion, order that the plaint should be taken off the file with costs to be paid by the pleader, or other person by whom it was presented.</i></li> <li>• <i>(3) Where such an application is moved by the defendant, notice of such application shall be given to such person, and the Court after hearing his objections (if any), may make such order, in the matter as it thinks fit.”</i></li> </ul>	<p>Rule 2:  <i>2. (1) Where a suit is instituted by or on behalf of a minor without a next friend, the defendant may apply to have the plaint taken off the file, with costs to be paid by the pleader or other person by whom it was presented.</i>  <i>(2) Notice of such application shall be given to such person and the Court after hearing his objections (if any) may make such order in the matter as it thinks fit.</i></p>
16.	<p><b>Order XXXIII shall be deleted.</b></p>	<p>Suits by Paupers</p>
17.	<p><b>Amendments of Order XXXVIII:</b>  <b>Amended Rule 1:</b></p>	<p>Rule 1:</p>

	<ul style="list-style-type: none"> <li>• <b>“Defendant to be called upon to furnish security.--</b>(1) <i>The Court, on the first date of hearing after examination of the plaint and on being satisfied as to the existence of a prima-facie case, direct the defendant to furnish adequate security for due satisfaction of the decree, if any, to be passed against him.</i></li> </ul> <p>(2). <i>Where the defendant fails to submit the required security within the stipulated time, the Court may after considering the available record and for reasons to be recorded grant an injunction, thereby ordering that the defendant shall not alienate or encumber his assets except with the permission of the Court.”</i></p>	<p>1. <i>Where a defendant may be called upon to furnish security.--Where at any stage of a suit other than a suit of the nature referred to in section 16, clauses (a) to (d), the Court is satisfied by affidavit or otherwise, -</i></p> <p><i>a) that the defendant with intent to delay the plaintiff or to avoid any process of the Court or to obstruct or delay the execution of any decree that may be passed against him,-</i></p> <p><i>i) has absconded or left the local limits of the jurisdiction of the Court, or</i></p> <p><i>ii) is about to abscond or leave the local limits of the jurisdiction of the Court or</i></p> <p><i>iii) has disposed of or removed from the local limits of the jurisdiction of the Court his property or any part thereof, or</i></p> <p><i>b) that the defendant is about to leave [Pakistan] under circumstances affording reasonable probability that the plaintiff will or may thereby be obstructed or delayed in the execution of any decree that may be passed against the defendant in the suit,</i></p> <p><i>the Court may issue a warrant to arrest the defendant and bring him before the Court to show cause why he should not furnish security for his appearance: Provided that the defendant shall not be arrested if he pays to the officer entrusted with the execution of the warrant any sum specified in the warrant as sufficient to satisfy the plaintiff's claim; and such sum shall be held in deposit by the Court until the suit is disposed of or until the further order of the Court.</i></p> <p>Rule 2:</p> <p>2.- (1) <i>Where the defendant fails to show such cause the Court shall order him either to deposit in Court money or other property sufficient to answer the claim against him, or to furnish security for his appearance at any time when called upon while the suit is</i></p>
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	<p><b>Amended Rule 2:</b></p> <ul style="list-style-type: none"> <li>• “2. (1) Where an injunction under Rule 1, has been issued against the defendant(s), he/they may apply to the court, for permission to dispose off or encumber their assets.</li> </ul> <p>(2) On receiving such an application, the Court, if it is satisfied through affidavits that;</p> <p style="padding-left: 40px;"><i>The intended disposal by the Defendant is not likely to effect the due satisfaction of the decree, it may proceed to grant such permission.</i></p> <p><b>Amended Rule 3:</b></p> <ul style="list-style-type: none"> <li>• “3. The defendant may apply to the Court for vacation of the injunction issued under Rule 1, by submitting independent security to the satisfaction of the Court for due satisfaction of the decree, if any, to be passed against him.”</li> </ul> <p><b>All other Rules in Order XXXVIII shall stand deleted.</b></p>	<p><i>pending and until satisfaction of any decree that may be passed against him in the suit, or make such order as it thinks fit in regard to the sum which may have been paid by the defendant under the proviso to the last preceding rule.</i></p> <p><i>(2) Every surety for the appearance of a defendant shall bind himself in default of such appearance to pay any sum of money which the defendant may be ordered to pay in the suit.</i></p> <p><b>Rule 3:</b></p> <p><i>3.- (1) A surety for the appearance of a defendant may at any time apply to the Court in which he became such surety to be discharged from his obligation.</i></p> <p><i>(2) On the application being made, the Court shall summon the defendant to appear or, if it thinks fit, may issue a warrant for his arrest in the first instance.</i></p> <p><i>(3) On the appearance of the defendant in pursuance of the summons or warrant, or on his voluntary surrender, the Court shall direct the surety to be discharged from his obligation, and shall call upon the defendant to find fresh security</i></p>
18.	<b>Amendments of Order XXXIX:</b>	<p><b>Rule 2-B:</b></p> <p><i>(2-B) The order of injunction made under</i></p>

	<p><b>Rule 2(B) shall be deleted.</b></p>	<p><i>rule 1 or 2 after hearing the parties or after notice to the defendant shall cease to have effect on the expiration of six months unless extended by the court after hearing the parties again and for reasons to be recorded for such extension: Provided that report of such extension shall be submitted to the High Court].</i></p>
<p>19.</p>	<p><b>Amendments of Order XLI:</b></p> <p><b>Rule 23-A shall be deleted.</b></p> <p><b>Amended Rule 27:</b></p> <ul style="list-style-type: none"> <li>• <i>“27. (1) The parties to an appeal may be allowed by the appellate Court to produce additional evidence, whether oral or documentary only if the Court from who’s decree appeal has been preferred;</i> <ol style="list-style-type: none"> <li><i>a. has refused to admit evidence which ought to have been admitted or,</i></li> <li><i>b. the appellate Court, on being satisfied that the additional evidence could not be produced before the Trial Court for reasons beyond the control of the</i></li> </ol> </li> </ul>	<p>High Court Amendment – Lahore – added following as Rule 23-A:</p> <p><i>Where the Court from whose decree an appeal is preferred has disposed of the case otherwise than on a preliminary point and the decree is reversed in appeal, and a re-trial is considered necessary, the appellate court shall have the same powers as it has under Rule 23.</i></p> <p>Rule 27:  <i>27. (1) The parties to an appeal shall not be entitled to produce additional evidence, whether oral or documentary in the appellate Court, But if–</i></p> <ol style="list-style-type: none"> <li><i>a) the Court from whose decree the appeal is preferred has refused to admit evidence which ought to have been admitted or,</i></li> <li><i>b) The Appellate Court requires any document to be produced or any witness to be examined to enable it to pronounce judgment, or for any other substantial cause, The Appellate Court may allow such evidence or document to be produced or witness to be examined.</i></li> </ol>

	<p><i>concerned party, or</i></p> <p><i>c. the appellate Court, itself requires any such evidence so as to enable it to pronounce a judgment.</i></p> <ul style="list-style-type: none"> <li><i>(2).The appellate Court in the above-mentioned circumstances may permit, production of additional evidence after recording reasons for grant of such permission in writing."</i></li> </ul>	<p><i>(2) Wherever additional evidence is allowed to be produced by an Appellate Court the Court shall record the reason for its admission.</i></p>
20.	<p><b>Amendments of Order XLIII:</b> <b>Amended Rule 1:</b></p> <p>In Order XLIII, Rule 1, clauses a, c, e, f, g, h, i, j (only to the extent of an appeal against an order under Order 21, Rule 72 CPC), k, l, m, n, o and v shall be deleted.</p> <p><b>Sub Rule 2 &amp; 3 of Rule 1 have been added:</b></p> <p><i>(2) Provided, however, that the appellant while filing an appeal under this order shall along-with the memorandum of appeal, furnish copies of the pleadings, order sheet of the subordinate Court, and all necessary documents.</i></p> <p><i>(3) It shall not be necessary for the appellate Court to requisition the record of the Trial Court, unless it, for the reasons to be recorded, requires the same for a decision of the appeal.</i></p> <p><b>Rule 3 and 4 shall be deleted.</b></p>	<p><b>Sub Rule 2 &amp; 3 of Rule 1 have been added.</b></p> <p><b>Rule 3 &amp; 4:</b> <i>3. - (1) Where an appeal against an order is preferred during the pendency of a suit the appellant shall before presenting the appeal give notice of such appeal to the respondent</i></p>

		<p><i>or his advocate by delivering a copy of the memorandum and grounds of appeal along with a copy of the order appealed against [either personally or through registered post acknowledgement due and the postal or other receipt shall be filed with the memorandum of appeal for the record of the appellate Court].</i></p> <p><i>(2) On receipt of notice referred to in sub-rule (1) the respondent may with the permission of the Court appear before it and contest the appeal and may be awarded costs on dismissal of the appeal in limine.</i></p> <p><i>4. The provisions of rule 3 shall mutatis mutandis, apply to all applications filed before an appellate Court during the pendency of a suit.</i></p>
21.	<b>Order XLIV shall be deleted.</b>	<p><b>Order XLIV:</b> <b>PAUPER APPEALS</b></p>





**No. 13 (Order 9-A)**

**CASE MANAGEMENT STATEMENT**

In the Court of \_\_\_\_\_

Civil Suit No. AB Plaintiff \_\_\_\_\_

against CDEF and GH

By Plaintiff/s \_\_\_\_\_

By Defendant/s \_\_\_\_\_

Date of Filing \_\_\_\_\_

Pursuant to Order 9-A CPC, plaintiff/s/Defendant/s as the case may be, submit Case Management Statement as under: -

4. Whether the Plaintiff or the defendant requires inspection and discovery of documents in terms of Order XI, CPC? if so, please specify.
5. Whether the plaintiff or defendant will require the other side (Specify) to admit or deny certain facts in terms of Order XII, CPC? If so, details should be given.
6. The Plaintiff and the defendant should answer the following: Interrogatories in terms of Order XI.
7. Plaintiff or Defendant undertakes to attend joint Case Management conference with the Advocates of the other side and submit joint Case Management Statement in form No.14\_Appendix C, CPC.

\_\_\_\_\_  
\_\_\_\_\_  
Signature of Plaintiff/s/

\_\_\_\_\_  
\_\_\_\_\_  
Signatures of the party

Defendant/s Advocate

Plaintiff/s/Defendant/s

-  
Certification by Advocate

I, \_\_\_\_\_, Advocate for the Plaintiff/Defendant certify that I have explained to the plaintiff/Defendant the procedures for the Case Management and CDR and he has understood the same.

\_\_\_\_\_  
Signature of the Advocate for Plaintiff/Defendant

Certification by the Parties

I, \_\_\_\_\_, Plaintiff/s/Defendant/s certify that the Advocate has explained to me, and I have understood, the case management and CDR procedures.

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Signature of the Plaintiff/s/Defendants/s

**No.14  
(Order 9-A)**

**Joint Case Management Statement**

In the Court of \_\_\_\_\_  
Civil Suit No. \_\_\_\_\_

**Joint Case Management Statement and Proposed Order IX- A**

Case Management Conference.

Date  
Place  
Time

Present

Pursuant to) Order 9-A, the parties (through their advocates) jointly submit this case management statement and proposed order. Each party certifies that his advocate (who will try this case) met and conferred for the preparation of this Statement as required by Order 9-A.

(3) Statement of admitted facts.

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(4) Statement of disputed facts.

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- (5) Issues arising for determination including preliminary issues, if any. (In case of disagreement on Issues enumerate issues which are agreed and those which are not Agreed for court's consideration.)

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- (6) Plaintiff/s/Defendant/s elect the following from the list of consensual dispute resolution mechanisms. (Tick next to your selection).

Tick here

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- (a) Mediation. \_\_\_\_\_  
(b) Arbitration. \_\_\_\_\_  
(c) Conciliation. \_\_\_\_\_

- (7) Deadline for disclosure of witnesses:

Party                      Deadline

- (8) Trial Schedule

- (a) Trial Date \_\_\_\_\_  
(b) Anticipated length of trial \_\_\_\_\_

(7). Name of Trial Advocate: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone Number \_\_\_\_\_

Advocate for: \_\_\_\_\_

Signature (Advocate): \_\_\_\_\_

(8). Name of Trial Advocate: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone Number \_\_\_\_\_

Advocate for: \_\_\_\_\_

Signature (Advocate): \_\_\_\_\_

(9). Name of the Plaintiff/s Defendant/s : \_\_\_\_\_

Signature (Plaintiff/s          Defendant/s):

\_\_\_\_\_

The court finds that each party was represented by advocate responsible for trial of this matter and was given an opportunity to be heard as to all matters encompassed by the Case Management Statements by each party and the Joint Case Management Statement by all the parties. The Court adopts this statement as modified and enters it as the order of this court under Order 9-A.

IT IS SO ORDERED

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<sup>i</sup> Zafar Iqbal Kalanauri, Mediator & Advocate Supreme Court of Pakistan, Adjunct Faculty of Law at SACHOL, Lahore University of Management Sciences (LUMS), SAF Center, #3 3rd Floor, 8-Fane Road Lahore 54000, Pakistan, Cell: (92) 300- 4511823 & 314-4224411 E-mail: kalanauri@gmail.com ; Web: <http://www.zklawassociates.com>