

CASE MANAGEMENT & CIVIL TRIAL IN PUNJAB
under
AMENDMENTS IN THE FIRST SCHEDULE TO CIVIL
PROCEDURE CODE 1908



THE CODE OF CIVIL PROCEDURE (PUNJAB AMENDMENT)
ACT 2018

&

THE CODE OF CIVIL PROCEDURE (PUNJAB AMENDMENT)
ORDINANCE 2020



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It had been realized with full gravity that the Rules & Orders as contained in the First Schedule of CPC are not catering the need of time as neither they facilitate the litigant public adequately nor deal with modern techniques; further that despite the fact that Section 89-A existed in the body of the Code but there is/was no mechanism/rules to make this section operationalized, which is the main factor for causing delay in disposal of the cases.

All the Hon'ble Members of Rule Committee (CPC) burnt mid night oil and after thorough deliberations on each and every Order/Rule, with the grace of Almighty Allah, the Committee succeeded in its goal and ultimately it had proposed & approved a final draft of amendments in the First Schedule of the Code *ibid*. After convening a number of meetings, spreading over a period of 18 months, and having consultations and seeking approval of all the stake holders, the Committee unanimously approved the following amendments in the First Schedule of Code of Civil procedure, 1908.

It has been decided by the committee that Approved draft will be placed before Hon'ble Chief Justice for seeking his Lordship's kind Orders to refer the same to Hon'ble Full Court.

These Amendments were approved by the full court and were later on these amendments in Rules and Orders of the First Schedule to the Code of Civil Procedure, (Act of 1908), made under section 122 of the Code, by Lahore High Court, Lahore, after previous approval of the Govt. of the Punjab were published in the official Gazette under section 127 of the Code on 15-08.2018.

MEMBERS OF RULE COMMITTEE (CPC)

Hon'ble Mr. Justice Amin-ud-Din Khan	(President)
Hon'ble Mr. Justice Muhammad Tariq Abbasi	(Member)
Hon'ble Mr. Justice Shams Mehmood Mirza	(Member)
Hon'ble Mr. Justice Shahid Karim	(Member)
Mr. Zafar Iqbal Kalanauri, Advocate Supreme Court	(Member)
Mr. Shahzad Shaukat, Advocate Supreme Court	(Member)
Mr. Shakib Imran, Senior Civil Judge, Lahore	(Member)
Mr. Muhammad Rafique, Addl. Registrar (L & R)	(Secretary)

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LAHORE WEDNESDAY AUGUST 22, 2018

LAHORE HIGH COURT, LAHORE.

NOTIFICATION.

No. 237/Legis/XI-Y-26**Dated 15-08-2018**

The following amendments in Rules and Orders of the First Schedule to the Code of Civil Procedure, (Act of 1908), made under section 122 of the Code, by Lahore High Court, Lahore, after previous approval of the Govt. of the Punjab are hereby published in the official Gazette under section 127 of the Code.

2. These shall come into force, within the local limits of jurisdiction of Lahore High Court, Lahore on such dates and in such District or Districts of the Punjab as Lahore High Court, Lahore may determine by Notification.

AMENDMENTS

1. This Notification may be cited as the Civil Procedure Code (Amendment of First Schedule) 2018.

2. It shall come into force in such district or districts of the Punjab as Lahore High Court Lahore may, by notification, determine and different dates may be so determined for different districts.

"In the Code of Civil Procedure, 1908, in the First Schedule:

1. In Order I, for rule 11, the following shall be substituted:

"11. 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 expeditious adjudication of the suit."

2. In Order II, after rule 6, the following new rule 6-A shall be inserted:

"6-A. Consolidation of suits.- Where two or more suits or proceedings of the same nature requiring determination of similar issues between the same parties are pending in relation to the same subject matter, the Court may, if considers it expedient for avoiding multiplicity of litigation or conflict in judgments, direct the consolidation of

such suits or proceedings as one trial, whereupon all such suits or proceedings shall be decided on the basis of the consolidated trial.”.

3. For Order IV, the following shall be substituted:

“1. Courts to be numbered.– For the purposes of this Code, the Courts shall be numbered, identified and addressed with reference to the numbers allocated to them.

2. Commencement of proceedings in suit.–
(1) Every suit shall be instituted, by presenting a plaint to a Court or such officer as it appoints in this behalf, and assigned to an Administrative Judge and a Trial Judge under the Code.

(2) Every plaint shall comply with the rules contained in Order VI and Order VII, so far as they are applicable.

3. Register of suits.– The Administrative Judge shall cause the particulars of every suit to be entered in a book to be kept for the purpose and called the register of civil suits. Such entry shall be numbered in every year according to the order in which the plaints are admitted.”

4. After Order IV, the following new Order IV-A shall be inserted.

**“ORDER IV-A
ADMINISTRATIVE JUDGES**

1. Administrative Judges.– The District Judge shall designate as many Civil Judges in the District as Administrative Judges as are necessary to the disposal of load of work with dispatch.

2. The Administrative Judge shall take and complete pre-trial proceedings in a suit, after it has been registered, when he is satisfied that the plaint and the written statement complies with the provisions of Orders VI and VII.

3. The pre-trial proceedings include the proceedings under Orders V, VIII, IX, IX-A, IX-B, X, XI, XII, XIII and XIV.

4. Upon taking and completing his pre-trial proceedings, the Administrative Judge shall cause the suit along with the entire record, placed on a specific date, before the Trial Judge for its trial under the Code:

Provided that the Administrative Judge, before sending the suit, shall satisfy himself that witnesses of the parties to the suit enter their appearance before the Trial Judge on the date when the suit is to be placed before him.

5. The Trial Judge, before commencement of trial, shall cause registration of the suit in the register of civil suits in the manner provided in Order IV."

5. In **Order V**:

(1) for rule 2, the following shall be substituted:

"2. Copy or statement annexed to the summons.- Every summons shall be accompanied by a copy of the plaint, or if so permitted by a concise statement, and copies of the documents annexed with the plaint and a copy of the list under sub-rule (2) of Rule 14 in Order VII.";

(2) In rule 5, the existing rule shall be numbered as sub-rule (1) and thereafter, the following new sub-rule (2) shall be inserted:

"(2) When the summons are for the settlement of issues, the summons shall state that the defendant may present written statement of his defence before the day fixed for his appearance".

(3) for rule 10-A, the following shall be substituted:

"10-A. 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 and another copy of the summons signed and sealed in the manner provided in rule 10 by courier service, or as the court may determine, by urgent mail service of Pakistan Post, at the cost of the plaintiff.

(2) The 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 take delivery of the summons shall be deemed by the Court issuing the summons to be *prima facie* proof of the service of the summons."

6. In **Order VII**:

(1) in rule 9, in sub-rule (1-A), for clause (a), the following shall be substituted:

"(a) copies of the plaint and documents under rule 14 for each defendant and two extra copies;"

(2) in rule 11, for clause (d), the following shall be substituted:

- “(d) where the suit appears, from the record available with the court, to be barred by any law.”;
- (3) after rule 11, the following new rule 11-A shall be inserted:
- “11-A. Separate application barred.-** A plea for rejection of plaint under rule 11 may be raised by the defendant in his written statement and not by a separate application.”;
- (4) for rule 13, the following shall be substituted:
- “13. Where rejection of plaint does not preclude presentation of fresh plaint.-** The rejection of the plaint, on any of the grounds mentioned in clause (a), clause (b) or clause (c) of rule 11, shall not, of its own force, preclude the plaintiff from presenting a fresh plaint in respect of the same cause of action.”; and
- (5) after rule 21, the following new rule 21-A shall be inserted:
- “21-A. Consequence of failure to annex copy etc. with the plaint.-** When the plaintiff fails to annex a copy of the plaint or concise statement or copies of documents mentioned in rule 2, the Court may make such order as it thinks just and fit.”
- (6) in rule 26, after sub-rule (3), the following sub-rule (4), shall be inserted:
- “(4) Failure of the plaintiff to file the list of legal representatives, as aforesaid, shall render the suit liable to be dismissed.”

7. In Order VIII:

- (1) after rule 1, the following new rule 1-A and rule 1-B shall be inserted:
- “1-A. Presumption of admission of contents of plaint.-** When the defendant fails to present written statement of his defence before the day fixed for his hearing, the Court shall presume that he admits the contents of the plaint as true:
- Provided that nothing shall preclude the Court from permitting the defendant to present written statement, upon showing a just and sufficient cause in an application in writing supported by an affidavit:
- Provided further that the permission to present written statement shall not extend beyond the period fixed in rule 1.

1-B. Additional copies of written statement and documents.- The defendant shall furnish additional copies of written statement and of the documents annexed therewith for their supply to the plaintiff."

- (2) in rule 13, after sub-rule (3), the following new sub-rule (4) and sub-rule (5) shall be inserted:

"(4) Failure of the defendant to file the list of legal representatives, as aforesaid, shall render his defence liable to be struck out."

(5) The Court may, on an application made by the defendant when accompanied with the list of legal representatives and disclosing a sufficient cause for non-filing of the list, recall the order passed under sub-rule (4) and allow him to continue with his defence of the suit."

- 8.** For **Order IX-A**, the following shall be substituted:

"1. Fixation of intermediate date.- (1) After the close of the pleadings, the Court shall fix-

- (a) a day for examination of parties under Order X;
- (b) a day for discovery and inspection under Order XI; and
- (c) a day for its proceedings under Order XII.

(2) The Court may grant a maximum adjournment of three days for completion of each proceedings mentioned in sub-rule (1) and shall keep a full and complete record of these proceedings in Form 13 in Appendix C.

(3) It shall be the duty of the Court to take proceedings under Orders X, XI and XII and to satisfy itself that the parties go to trial for precise and exact issues of law and facts they are at variance with each other.

(4) While taking proceedings under Orders X, XI and XII, the Court, having regard to the facts and circumstances of the case, shall carefully determine the possibility of the alternate dispute resolution method and when so warranted adopt such a method in accordance with section 89-A.

(5) The Court shall stay the proceedings of the suit for a period which is not more than thirty days when it requires the parties to adopt any of the alternate dispute resolution method.

2. Case management questionnaire.– (1) The plaintiff shall file along with the plaint a duly filled in case management questionnaire in Form 14 in Appendix C.

(2) The defendant shall, at the time of presenting his written statement, file a duly filled in case management questionnaire in Form 15 in Appendix C.”

9. After **Order IX-A**, the following new Order IX-B shall be inserted:

“ORDER IX-B

ALTERNATE DISPUTE RESOLUTION

1. Reference to mediation.– (1) Except where the Court is satisfied that there is no possibility of mediation or an intricate question of law or facts is involved, the Court shall refer the case for mediation.

(2) While referring the matter for mediation, the Court may indicate the material issues for determination through mediation.

2. Appearance of parties.– Where a case is referred for mediation, the Court shall stay the proceedings for a period not exceeding thirty days and direct the parties to appear before the Mediation Centre, set up by Lahore High Court, on such date and time as the Court may specify.

3. Settlement.– (1) Where 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 or their recognized agents or their pleaders and attested by two independent witnesses.

(2) The agreement shall be certified by the Mediator and transmitted forthwith, through the Administrator of the Mediation Center, to the Court.

(3) The Court shall, on receipt of the agreement, pass a decree in terms thereof unless the Court, for reasons to be recorded in writing, finds that the agreement between the parties is not enforceable at law.

(4) Where the settlement relates only to a part of the dispute, the Court shall pass decree or an order in terms of such settlement and proceed to adjudicate the remaining issues.

4. Failure of mediation.– Where the meditation fails and no settlement is made between the parties, the Mediator shall submit a report to the Court and the Court shall proceed with the case from the stage it was referred to Mediation.”.

10. In **Order XI**:

- (1) for the existing rules 1 and 2, the following shall be substituted:

"1. Discoveries by interrogatories.- The Court shall 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 which of such interrogatories each of such person is required to answer, provided that the Court may reject an interrogatory or part thereof which, in its opinion, is not relevant to the case.

2. Communication of interrogatories.- On receipt of the interrogatories under rule 1, the Court shall deliver the interrogatories to the concerned person for submitting the answer within such time as the Court may specify.

(2) for rule 8, the following shall be substituted:

"8. Affidavit.- The interrogatories shall be answered by an affidavit to be filed within the time specified by the Court.";

(3) for rule 11, the following shall be substituted:

"11. Order to answer or answer further.- Where any person interrogated submits an insufficient or an evasive answer, the Court may require him to submit the proper answer within the time specified by the Court.";

(4) for rule 12, the following shall be substituted:

"12. Application for discovery of documents.- (1) Any party may apply to the Court for an order directing any other party to a suit to make discovery on oath of the documents which are or have been in his possession or power, relating to a matter in issue in the suit.

(2) On hearing such application, the Court may either refuse or adjourn the same, if it is satisfied that such discovery is not necessary or not necessary at that stage of the suit, or may, after being satisfied as to the validity of the prayer made, direct the other party to make the discovery:

Provided that the discovery shall not be ordered when and so far as the Court is of opinion that it is not necessary either for disposing the suit or for saving costs".

11. In Order XII:

(1) for rule 1, the following shall be substituted:

"1. Admission of case.- The Court shall enquire from a party whether or not it admits the

truth of the whole or part of the case set up by the other party in the pleadings.”;

- (2) for rule 2, the following shall be substituted:

“2. Admission of documents.- (1) The Court shall also require the parties to admit or deny the documents annexed with the plaint or, as the case may be, the written statement.

(2) If a party fails to comply with the direction under sub-rule (2), the Court may proceed against such party under rule 21 of Order XI.

(3) If a party denies a document which is proved at the trial, the Court shall burden such party with such heavy costs as it may deem fit.”.

- 12.** In **Order XIV**, in rule 1, for sub-rule (5), the following shall be substituted:

“(5) At the first hearing of the suit after the proceedings under Orders X, XI and XII, the Court shall, after reading the plaint, the written statement and such examination of the parties as may be necessary, determine the material propositions of facts or of law in dispute between the parties and shall proceed to frame and record the issues on which the decision is likely to depend.”.

- 13.** In **Order XVI**, in rule 1:

- (1) for sub-rule (1), the following shall be substituted:

“(1) The Court shall, immediately after framing of the issues, require the parties to file a list of witnesses in the Court within such period, not later than seven days, as the Court may fix.”; and

- (2) for sub-rule (2), the following shall be substituted:

“(2) A party shall not be permitted to call witnesses other than those contained in the list, except with the permission of the Court and after showing good cause for the omission of the said witnesses from the list and the Court shall record reasons for granting permission.”.

- 14.** In **Order XX**:

- (1) for rule 1, the following shall be substituted:

“1. Judgment when pronounced.- (1) On completion of evidence, the Court shall fix a date, not exceeding fifteen days, for submission of the precise written arguments along with the relevant case-law by the parties.

(2) The Court, after submission of the written arguments under sub-rule (1) and after hearing the oral submissions, if so required, pronounce judgment in open court either at once or on some future date, not exceeding fifteen days, for which due notice shall be given to the parties or their advocates.”; and

(2) for rule 20, the following shall be substituted:

“20. Certified copies of judgment and decree.- The Court shall, at the time of pronouncement of the judgment, provide to the parties, at their expense, certified copies of the judgment and the decree.”.

15. In Order XXI:

(1) for rule 10, the following shall be substituted:

“10. Execution of a decree.- On passing of an executable decree by a Court, the suit shall stand converted into execution proceedings and no separate application for the purpose and no fresh notice to the judgment debtor shall be necessary.”;

(2) for rule 11, the following shall be substituted:

“11. Attachment.- At the time of the initiation of execution proceedings, the Court shall order the attachment of the property of the judgment debtor, if it has not already been attached under Order XXXVIII.”;

(3) rule 17 shall be omitted;

(4) rule 23 shall be omitted;

(5) for rule 23-A, the following shall be substituted:

“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:

(a) in case of a decree for the payment of money, he either deposits the decretal amount in the Court or furnishes security to the satisfaction of the Court for its payment; and

(b) in case of any other decree, he furnishes security to the satisfaction of the Court for the due performance of the decree.”;

(6) rule 29 shall be omitted;

(7) in rule 32, in sub-rule (1), the expression “or for restitution of conjugal rights,” and the expression “in the

case of a decree for restitution of conjugal rights by the attachment of his property or," shall be omitted;

(8) rule 33 shall be omitted;

(9) in rule 36, for the full stop at the end, a colon shall be substituted and thereafter, the following proviso shall be added:

"Provided that no such right of a tenant or other person shall be protected in a case where the tenant or the other person entered into possession of the immovable property during the pendency of the suit wherein the decree has been passed.";

(10) for rule 37, the following shall be substituted:

"37. Discretionary power to allow judgment-debtor an opportunity to show good cause against detention in prison.- (1) Notwithstanding anything in the rules, where a decree for the payment of money is sought to be executed through arrest and detention in prison of the judgment-debtor, the Court 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 detained in prison:

Provided that such opportunity shall not be necessary if the Court is satisfied, by affidavit or otherwise, that, with the object 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.

(2) Where the judgment-debtor fails to avail himself 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.";

(11) in rule 40:

(a) for sub-rule (1), the following shall be substituted:

"(1) Where a judgment-debtor avails himself the opportunity provided under rule 37 or is brought before the Court after being arrested in execution of the decree for the payment of money, the Court shall give the judgment-debtor an opportunity of showing good cause why he should not be detained in prison.";

(b) sub-rule (2) shall be omitted;

(c) for sub-rule (3), the following shall be substituted:

"(3) Where the judgment-debtor fails to show any good cause under sub-rule (1),

the Court may, subject to the provisions of section 51 and to the other provisions of the 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.”.

(12) for rule 54, the following shall be substituted:

“54. Attachment of immovable property.- (1)

Where the property is immovable property, the attachment shall be made by an order prohibiting the judgment-debtor from transferring or charging the property in any way, and all other persons from taking any benefit from such transfer or charge and any such transfer, charge, alienation, encumbrance or other disposition in violation of this rule shall be void and of no legal effect.

(2) A copy of the order under sub-rule (1) shall be conveyed to the concerned authority maintaining the record of the property under attachment, in addition to a proclamation of the order at some place adjacent to such property by beat of drum or any other customary mode, and a copy of the order shall be affixed on a conspicuous part of the property and the Court-house, and also, where the property is subject to land revenue to the Government, in the office of the Collector of the district in which the land is situate.”;

(13) in rule 58, in sub-rule (1), in the proviso, for the words “one year”, the words “thirty days” shall be substituted:

(14) in rule 66:

(1) for sub-rule (2), the following shall be substituted:

“(2) (i) such proclamation shall be drawn up by the Court Auctioneer and shall state the time and place of sale and specify as fairly and accurately as possible:

(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 sale is ordered; and
 - (e) every other thing which the Court Auctioneer considers material for a purchaser to know in order to judge of the nature and value of the property.
- (ii) the Court Auctioneer shall submit the proclamation drawn up by him to the Court for its approval which shall add to it the reserve price of the property under sale, based upon the evaluation report submitted by any evaluator appointed by the Court from amongst the evaluators approved by the Pakistan Banker's Association."
- (2) sub-rule (3) shall be omitted.
- (15) in rule 67, for sub-rule (2), the following shall be substituted:
 - "(2) (i) Where the reserve price determined by the Court exceeds rupees two million, the proclamation shall also be published in at least one widely circulated national daily newspaper and the costs of such publication shall be deemed to be costs of the sale; and
 - (ii) The Court Auctioneer shall cause video recording of the auction proceedings while ensuring transparent and fair bidding process of the public auction and the costs of such video recording shall be deemed to be costs of the sale."
- (16) rule 70 shall be omitted;
- (17) in rule 72:
 - (a) for sub-rule (1) and sub-rule (2), the following shall be substituted:
 - "(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 the purchase of the property.
 - (2) Where a decree-holder 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.”;

(b) sub-rule (3) shall be omitted;

(18) rule 78 shall be omitted;

(19) in rule 83, after sub-rule (3), the following new sub-rule (4) shall be inserted:

“(4) A notice of the sale of the property shall be given to the judgment-debtor with an option to match the highest bid within fifteen days of the auction of the property and the judgment debtor, in that case, shall have the first right of refusal to purchase the property at the highest bid offered by a bidder.”;

(20) in rule 84, for sub-rule (1), the following shall be substituted:

“(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 the reserve price of the property through pay order or bank draft or banker’s cheque immediately after such declaration and in case such payment is not so made, the property shall forthwith be resold in the manner provided under this Order.”;

(21) in rule 89:

(a) for the full stop at the end, a colon shall be substituted and thereafter the following proviso shall be inserted:

“Provided that no application under this rule shall be entertained unless the applicant deposits in the Court the amount specified in the proclamation of sale along with a sum equal to five per cent of the purchase money.”; and

(b) after sub-rule (3), the following new sub-rule (4) shall be inserted:

“(4) The Court shall decide the application under this rule within thirty days of the filing of the application.”; and

(22) in rule 90, in the second proviso, for the words “twenty five”, the word “fifty” shall be substituted.

16. In **Order XXIII**, in rule 1, in sub-rule (2), after the words “the Court is satisfied”, the words “after recording reasons” shall be inserted.

17. In **Order XXXII**, for rule 2, the following shall be substituted:

"2. Where suit is instituted without next friend.- (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.

(2) Where the defect is not removed, the Court may, on an application of the defendant, or of its 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.

(3) Notice of the application submitted under sub-rule (2) shall be given to the pleader or such other person, and the Court may, after hearing his objections, if any, make appropriate order."

18. **Order XXXIII** shall be omitted.

19. In **Order XXXVIII**, for the existing rule 1, rule 2 and rule 3, the following shall be substituted:

"1. Defendant to be called upon to furnish security.- (1) 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 the due satisfaction of the decree, if passed against him.

(2) Where the defendant fails to furnish security within the time fixed by the Court, the Court may, after considering the available record and for reasons to be recorded, prohibit the defendant from transferring or charging his property in any way, except with the prior permission of the Court.

2. Procedure on application.- (1) Where an order under rule 1 is made, the defendant may apply, along with an affidavit, to the Court for permission to transfer or charge his property.

(2) On receipt of such application, the Court, if satisfied, that the intended disposal by the defendant is not likely to affect the due satisfaction of the decree, may proceed to grant such permission.

3. Furnishing of security.- The defendant may apply to the Court for the vacation of the order issued under rule 1, by furnishing independent security to the satisfaction of the Court for the due satisfaction of the decree, if passed against him."

20. In **Order XXXIX**, rule 2B shall be omitted.

21. In **Order XLI**:

(1) rule 23-A shall be omitted;

- (2) for rule 27, the following shall be substituted:

"27. Production of additional evidence in Appellate Court.- The Appellate Court, after recording reasons, allow the parties to an appeal to produce additional evidence, whether oral or documentary:

- (a) if the Court from whose decree the appeal has been preferred, has refused to admit evidence which ought to have been admitted;
- (b) the Appellate Court, on being satisfied that the additional evidence has been available but could not be produced before the trial Court for reasons beyond the control of the party seeking its production; or
- (c) the Appellate Court itself requires any such evidence so as to enable it to pronounce a judgment."

22. In Order XLIII:

- (1) in rule 1:

- (i) clauses (a), (c), (e), (f), (g), (h), (i), (k), (l), (m), (n), (o) and (v) shall be omitted;
- (ii) in clause (j), the expression "rule 72 or" shall be deleted;
- (iii) in clause (w), for the full stop at the end, a colon shall be substituted and thereafter the following proviso shall be inserted:

"Provided 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.";

- (2) for rule 2, the following shall be substituted:

"2. Record of the trial Court.- It shall not be necessary for the Appellate Court to call for the record of the trial Court, unless it, for reasons to be recorded, requires the record for decision of the appeal."; and

- (3) rule 3 and rule 4 shall be omitted.

23. Order XLIV shall be omitted.

By order of the Chief Justice and Judges

**(Rao Abdul Jabbar Khan)
Registrar**



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LAHORE WEDNESDAY OCTOBER 31, 2018

Addendum to Lahore High Court Notification No. 237/Legis/xi-y-26, dated 15.08.2018

Appendix-C

Form No. 13 (Order IX-A)

CASE MANAGEMENT STATEMENT

In the Court of

Civil Suit No. _____

(Plaintiff)

Versus

(Defendant)

By Plaintiff(s) _____

By Defendant(s) _____

Date of Filing _____

Pursuant to Order IX-A CPC, Plaintiff(s)/Defendant(s) as the case may be, shall submit Case Management Statement as under:

1. Whether the Plaintiff or the Defendant requires inspection and discovery of documents in terms of Order XI, CPC? If so, please specify.
2. 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.

3. The Plaintiff and the Defendant should answer the following Interrogatories in terms of Order XI.
4. Plaintiff or Defendant undertakes to attend joint Case Management conference with the Advocates of the other side and submit Case Management Statement in Form No.14 or 15 Appendix-C, CPC.

Signature of Plaintiff(s)/
Defendant(s) Advocate

Signatures of the party
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.

Signature of the Plaintiff(s)/Defendants(s)

Appendix -C**Form No.14 (Order IX-A)****Case Management Statement of Plaintiff(s)**

In the Court of _____

Civil Suit No. _____

Case Management Conference.

Date _____ Time _____

Pursuant to Order IX-A, the parties (through their advocates) submit Case Management Statement under the order. Each party(s) certifies that his advocate (who will try this case) met and conferred for the preparation of this Statement as required by Order IX-A.

- (1) Statement of admitted facts.

- (2) Statement of disputed facts.

- (3) 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.)

- (4) Plaintiff(s) elect the following from the list of consensual dispute resolution mechanisms.

- (a) Mediation. _____
- (b) Arbitration. _____
- (c) Conciliation. _____

(5) Deadline for disclosure of witnesses:

Party

Deadline

(6) Trial Schedule

- (a) Trial Date _____
- (b) Anticipate length of _____

(7). Name of Trial Advocate: _____

Address: _____

Telephone Number _____

Advocate for: _____

Signature (Advocate): _____

(8). Name of the Plaintiff(s) _____

Signatures (Plaintiff(s)) _____

The court finds that each party was represented by an 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 IX-A.

IT IS SO ORDERED

Appendix -C**Form No.15 (Order IX-A)****Case Management Statement of Defendant(s)**

In the Court of _____

Civil Suit No. _____

Case Management Conference.

Date _____ Time _____

Pursuant to Order IX-A, the parties (through their advocates) submit Case Management Statement under the order. Each party(s) certifies that his advocate (who will try this case) met and conferred for the preparation of this Statement as required by Order IX-A.

- (1) Statement of admitted facts.

- (2) Statement of disputed facts.

- (3) 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.)

- (4) Defendant(s) elect the following from the list of consensual dispute resolution mechanisms.

- (a) Mediation. _____
- (b) Arbitration. _____
- (c) Conciliation. _____

(5) Deadline for disclosure of witnesses:

Party

Deadline

(6) Trial Schedule

(c) Trial Date

(d) Anticipate length of

(7). Name of Trial Advocate:

Address:

Telephone Number

Advocate for:

Signature (Advocate):

(8). Name of the Defendant(s)

Signatures (Defendant(s))

The court finds that each party was represented by an 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 IX-A.

IT IS SO ORDERED

.....

(BAHADAR ALI KHAN)

Registrar



LAHORE HIGH COURT LAHORE

No. ²⁵⁰...../Legis/XI-Y-26

Dated...23.10.2020

NOTIFICATION

In exercise of the powers conferred under paragraph 2 of the Notification No.237/Legis/XI-Y-26 dated 15th August, 2018 published in the Punjab Gazette No. 08 dated 22nd August, 2018 and addendum thereto No. 18 dated 31st October, 2018, the Hon'ble Chief Justice and Judges are pleased to direct that the provisions of Civil Procedure Code (Amendment of First Schedule) 2018, made under section 122 of the Code of Civil Procedure (Act No. V of 1908) shall come into force on the first day of November, 2020 within the local limits of jurisdiction of the Lahore High Court, Lahore.

MALIK MUSHTAQ AHMAD OJLA
REGISTRAR

Number and date even:

Copy forwarded for information to:-

1. All the District & Sessions Judges in the Punjab.
2. The President Punjab Bar Council, Lahore High Court Bar Associations, Districts & Tehsil Bar Associations of Punjab.
3. The Director General, Directorate of District Judiciary, Lahore High Court, Lahore.
4. The Secretary, Government of the Punjab, Law and Parliamentary Affairs Department, Lahore.
5. The Director General, Punjab Judicial Academy, Lahore.
6. The Secretary/P.S to the Hon'ble Chief Justice, Lahore High Court, Lahore.
7. The Secretary, Hon'ble Rule Committee (CPC).
8. All the Additional Registrars (CS)/Senior/Private Secretaries to the Hon'ble Judges Lahore High Court, Lahore.
9. All the Additional Registrar, Lahore High Court Principal Seat and Benches.
10. The Superintendent, Printing Press, Government of the Punjab, Lahore with the request to publish in the Extraordinary Gazette of Punjab and to supply 20 copies.

MUHAMMAD RAFIQUE
Secretary Rule Committee (CPC)

**THE CODE OF CIVIL PROCEDURE (PUNJAB AMENDMENT) ACT
2018 (Act XIV of 2018)
C O N T E N T S**

SECTION	HEADING
1.	Short title and commencement.
2.	Amendment in section 3 of Act V of 1908.
3.	Omission of section 7 of Act V of 1908.
4.	Amendment in section 9 of Act V of 1908.
5.	Amendment in section 12 of Act V of 1908.
6.	Amendment in section 24 of Act V of 1908.
7.	Amendment in section 30 of Act V of 1908.
8.	Substitution of section 33 of Act V of 1908.
9.	Amendment in section 35 of Act V of 1908.
10.	Amendment in section 35-A of Act V of 1908.
11.	Substitution of section 44-A of Act V of 1908.
12.	Amendment in section 91 of Act V of 1908.
13.	Amendment in section 92 of Act V of 1908.
14.	Substitution of section 95 of Act V of 1908.
15.	Amendment in section 97 of Act V of 1908.
16.	Substitution of section 102 of Act V of 1908.
17.	Amendment in section 104 of Act V of 1908.
18.	Amendment in section 114 of Act V of 1908.
19.	Amendment in section 115 of Act V of 1908.
20.	Amendment in section 151 of Act V of 1908.

**[1] THE CODE OF CIVIL PROCEDURE (PUNJAB AMENDMENT) ACT
2018 (Act XIV of 2018)
[20 March 2018]**

An Act further to amend the Code of Civil Procedure, 1908.

It is necessary further to amend the Code of Civil Procedure, 1908 (V of 1908) for purposes of updating certain provisions of the Code.

Be it enacted by Provincial Assembly of the Punjab as follows:

1. Short title and commencement. - (1) This Act may be cited as the Code of Civil Procedure (Punjab Amendment) Act 2018.
(2) It shall come into force at once.
2. Amendment in section 3 of Act V of 1908.- In the Code of Civil Procedure, 1908 (V of 1908), for brevity referred to as the Act, in section 3, for the words “Court of Small Causes”, the words “Court of Small Claims and Minor Offences” shall be substituted.
3. Omission of section 7 of Act V of 1908.- In the Act, section 7 shall be omitted.
4. Amendment in section 9 of Act V of 1908.- In the Act, in section 9, after the words “impliedly barred”, the words “or for which a general or a special law is in force” shall be inserted.

5. Amendment in section 12 of Act V of 1908.- In the Act, in section 12, after subsection (2), the following new subsection (3) shall be inserted:

“(3) For purposes of the disposal of an application under subsection (2), the Court may, in the interest of expeditious disposal, apply such fair procedure as the circumstances of the case warrant, and shall, unless, for reasons to be recorded it directs otherwise, order any fact to be proved or disproved by affidavit.”.

6. Amendment in section 24 of Act V of 1908.- In the Act, in section 24, subsection (4) shall be omitted.

7. Amendment in section 30 of Act V of 1908.- In the Act, in section 30, for clause (c), the following shall be substituted:

“(c) order any fact to be proved or disproved by affidavit.”.

8. Substitution of section 33 of Act V of 1908.- In the Act, for section 33, the following shall be substituted:

“33. Judgment and decree. - The Court, after the case has been heard, shall pronounce judgment maximum within fifteen days and on such judgment a decree shall follow simultaneously.”.

9. Amendment in section 35 of Act V of 1908.- In the Act, in section 35, for subsection (1), the following shall be substituted:

“(1) Subject to such conditions and limitations, as may be prescribed, and to the provisions of law for the time being in force, the costs of an incident to all suits and other proceedings in the suit including execution proceedings, shall follow the event, and the Court shall have full power to determine by whom or out of which property and to what extent such costs are to be paid, and to give all necessary directions for the purpose aforesaid.

(1a) The fact that the Court has no jurisdiction to try the suit shall be no bar to exercising the powers under subsection (1).”.

10. Amendment in section 35-A of Act V of 1908.- In the Act, in section 35-A, in subsection (2):

(a) for the words “twenty-five thousand”, the words “one hundred thousand” shall be substituted;

(b) first proviso shall be omitted; and

(c) in the second proviso, the expression “, further,” shall be omitted.

11. Substitution of section 44-A of Act V of 1908.- In the Act, in section 44-A, the following shall be substituted:

“44-A. Execution of decrees passed by Courts in the reciprocating territory. - (1) Where a certified copy of a decree of any of the Superior Courts of the reciprocating territory has been filed in a District Court, the decree may be executed in Pakistan as if it had been passed by the District Court.

(2) Together with the certified copy of the decree shall be filed a certificate from such superior Court stating the extent, if any, to which the decree has been satisfied or adjusted and such certificate shall, for the purposes of proceedings under this section, be conclusive proof of the extent of such satisfaction or adjustment.

(3) The provisions of section 47 shall as from the filing of the certified copy of the decree apply to the proceedings of a District Court executing a decree under this section, and the

District Court shall refuse execution of any such decree, if it is shown to the satisfaction of the Court that the decree falls within any of the exceptions specified in clauses (a) to (f) of section 13.

Explanation 1. "Reciprocating territory" means such country or territory as the Federal Government may, from time to time, by notification in the official Gazette, declare to be reciprocating territory for the purposes of this section; and "superior Courts", with reference to any such territory, means such Courts as may be specified in the said notification.

Explanation 2. "Decree", with reference to a superior Court, means any decree or judgment of such Court under which a sum of money is payable, not being a sum payable in respect of taxes or other charges of a like nature or in respect of a fine or other penalty, and does not include an arbitration award, even if such award is enforceable as a decree or judgment."

12. Amendment in section 91 of Act V of 1908.- (1) In the Act, in section 91, in subsection (1), for the expression "having obtained the consent in writing of the Advocate General", the expression "with the leave of the Court" shall be substituted.

13. Amendment in section 92 of Act V of 1908.- (1) In the Act, in section 92:

(a) in subsection (1), for the expression "and having obtained the consent in writing of the Advocate General", the expression "with the leave of the Court" shall be substituted; and
(b) for subsection (2), the following shall be substituted:

"(2) No suit claiming any of the reliefs specified in subsection (1) shall be instituted in respect of any such trust as is therein referred to, except in conformity with the provisions of that subsection."

14. Substitution of section 95 of Act V of 1908.- In the Act, for section 95, the following shall be substituted:

"95. Compensation for obtaining arrest, attachment or injunction on insufficient grounds. - (1) Where, in any suit in which an arrest or attachment has been effected or a

temporary injunction is granted under the last preceding section, it appears to the Court that:

(a) such arrest, attachment or injunction was applied for insufficient grounds; or

(b) there was no reasonable or probable ground for making the application -

the Court may, on its own motion or on the application of the aggrieved party, award such punitive compensation as it deems reasonable to the aggrieved party for the expense and injury caused to him.

(2) In addition to the compensation awardable under subsection (1), the Court may also make an order directing the party at fault to deposit such amount in the public exchequer as the Court deems just, as penalty for abusing the process of the law and wasting the time of the Court.

(3) An order under this section shall bar any suit for compensation in respect of such arrest, attachment or injunction."

15. Amendment in section 97 of Act V of 1908.- In the Act, in section 97, the words "passed after the commencement of this Code" shall be omitted.

16. Substitution of section 102 of Act V of 1908.- In the Act, for section 102, the following shall be substituted:

"102. No second appeal in certain cases. - No second appeal shall lie in any suit when the amount or value of the subject matter of the original suit does not exceed rupees twenty-five million."

17. Amendment in section 104 of Act V of 1908.- In the Act, in section 104, after clause (ff), the following new clause (fff) shall be inserted:

“(fff) an order under section 91 or section 92 refusing leave to institute a suit;”.

18. Amendment in section 114 of Act V of 1908.- In the Act, in section 114, for subsection (1), the following shall be substituted:

“(1) Subject as aforesaid, any person considering himself aggrieved:

(a) by a decree or order from which an appeal is allowed by this Code but from which no appeal has been preferred; or

(b) by a decree or order from which no appeal is allowed by this Code -
may apply for a review of judgment to the Court which passed the decree or made the order, and the Court may make such order thereon as it thinks fit.”.

19. Amendment in section 115 of Act V of 1908.- In the Act, in section 115:

(a) in subsection (1), for the second proviso, the following shall be substituted:

“Provided further that the subordinate court shall provide copies of the documents to a person within three days of the decision, and the High Court shall dispose of such application within six months;” and

(b) after subsection (4), the following new subsection (5) shall be inserted:

“(5) No proceedings in revision shall be entertained by the High Court against an order passed by the District Court under section 104.”.

20. Amendment in section 151 of Act V of 1908.- In the Act, in section 151, after the word “Court” occurring for the first time, the expression “, to be exercised after recording reasons in writing,” shall be inserted.

[1] This Act, which amended the Code of Civil Procedure, 1908 (V of 1908); was passed by the Punjab Assembly on 14 March 2018; assented to by the Governor of the Punjab on 19 March 2018; and, was published in the Punjab Gazette (Extraordinary), dated 20 March 2018, pages 6695-98.

**THE CODE OF CIVIL PROCEDURE (PUNJAB AMENDMENT) ORDINANCE 2020
(VIII of 2020)**

CONTENTS

1. Short title and commencement.
2. Substitution of section 3 of Act V of 1908.
3. Substitution of section 26 of Act V of 1908.
4. Insertion of section 27A in Act V of 1908.
5. Substitution of section 96 of Act V of 1908.
6. Amendment of section 106 of Act V of 1908.
7. Amendment of section 115 of Act V of 1908.
8. Amendment of section 128 of Act V of 1908.
9. Substitution of section 141 of Act V of 1908.
10. Insertion of section 159 in Act V of 1908.

TEXT

**[1] ⁱTHE CODE OF CIVIL PROCEDURE (PUNJAB AMENDMENT) ORDINANCE
2020
(VIII of 2020)
[29th April, 2020]**

An Ordinance to amend the Code of Civil Procedure, 1908.

It is expedient to amend the Code of Civil Procedure, 1908 (V of 1908) to bring procedural reforms for smooth and swift dispensation of justice; for reduction of backlog of civil cases; and for the matters ancillary thereto.

Provincial Assembly of the Punjab is not in session, and Governor of the Punjab is satisfied that circumstances exist which render it necessary to take immediate action.

In exercise of the powers conferred under clause (1) of Article 128 of the Constitution of the Islamic Republic of Pakistan, Governor of the Punjab is pleased to make and promulgate the following Ordinance:

1. Short title and commencement. – (1) This Ordinance may be cited as the Code of Civil Procedure (Punjab Amendment) Ordinance 2020.
(2) It shall come into force at once except the provisions for electronic maintenance of records and proceedings which shall come into force on such date as the Government may by notification in the official Gazette appoint.
2. Substitution of section 3 of Act V of 1908.- In the Code of Civil Procedure, 1908 (V of 1908), for brevity referred to as ‘the Act’, for section 3, the following shall be substituted:
“3. Hierarchy of Courts. - For purposes of this Code, the hierarchy of Civil Courts shall be the same as provided in the Punjab Civil Courts Ordinance, 1962 (II of 1962).”.
3. Substitution of section 26 of Act V of 1908.- In the Act, for section 26, the following shall be substituted:
“26. Institution of suits through plaint. - (1) Every suit shall be instituted by presentation of a plaint in such manner as may be prescribed.
(2) The plaintiff shall file as many copies of the plaint and accompanying documents with the plaint as there are defendants to the suit, to be sent along with the summons.
(3) It shall be duty of the Court to maintain electronic records of the proceedings in suits in such manner as may be prescribed.

Explanation. For purposes of this subsection, the word “suits” includes any proceeding in applications, appeals, reviews, revisions or anything incidental thereto.

26A. Written statement. - (1) The defendant shall file written statement not later than thirty days from the date of his first appearance in the Court.

(2) The defendant shall provide additional copies of written statement and of the documents annexed therewith for each of the parties and for the Court.

(3) If the defendant fails to file the written statement within the time frame provided under subsection (1), the Court shall close the right to defend the case.

26B. Framing of issues, filing of list of witnesses, recording of evidence and hearing of final arguments. - (1) The Court shall, within seven days of filing of the written statement, frame issues.

(2) The parties may, within seven days of framing of the issues, raise objections on such issues, and shall provide a list of witnesses and certificate of readiness for production of evidence.

(3) Upon framing of the issues, filing of the list of witnesses and certificate of readiness for production of evidence, the Court may itself record the evidence or may direct a Commission to record the evidence in the prescribed manner.

(4) For purposes of subsection (3), the Court shall appoint a Commission from a list of approved panel, comprising of advocates and retired judges, maintained by the District Judge concerned, on payment of such fee and terms and conditions as may be determined by the Court.

(5) The Court or the Commission, as the case may be, shall complete recording of evidence and proceedings in writing and through audio and video recording within ninety days of fulfilment of the requirements contained in subsection (3).

(6) The Court, upon completion of evidence of the parties, shall complete the hearing of final arguments of the parties within twenty days:

Provided that the parties may file written arguments in the Court within the time frame under this subsection.”.

4. Insertion of section 27A in Act V of 1908.- In the Act, after section 27, the following section 27A shall be inserted:

“27A. Process of summons. - (1) The summons shall be issued simultaneously, unless otherwise ordered by the Court, to the defendant, by registered post acknowledgment due and another copy of the summons by courier service signed and sealed in such manner as may be prescribed, or as the Court may determine, by urgent mail service of Pakistan Post, at the expense of the plaintiff.

(2) The Court shall order simultaneous service by-

(a) affixing a copy of the summons at some conspicuous part of the house in which the defendant is known to have last resided or carried on business or personally worked for gain;

(b) any modern device including electronic device of communication which may include mobile, telephone, telegram, phonogram, telex, fax, radio, television etc. in the prescribed manner;

(c) urgent mail service or public courier services;

(d) publication in the press in the prescribed manner; and

(g) any other manner or mode as it may deem fit.

(3) Location of the process server serving the summons shall be monitored by modern devices in the prescribed manner, and the process server shall take photograph of the defendant or the premises or the person accepting service of summons on behalf of the defendant, which shall be made part of the record as a proof of service of the process.”.

5. Substitution of section 96 of Act V of 1908.- In the Act, in section 96, in subsection (1), for the full stop at the end, the expression “, and the Court shall decide the appeal within sixty days from the date of first appearance of the respondent in appeal.” shall be substituted.

6. Amendment of section 106 of Act V of 1908.- In the Act, for section 106, the following shall be substituted:

“106. What Courts to hear appeals. -

(1) Where an appeal from any order is allowed, it shall lie to the Court to which an appeal would lie from the decree in the suit in which such order was made, or where such order is made by a Court not being the High Court in exercise of appellate jurisdiction, then to the High Court.

(2) A Court shall decide an appeal under subsection (1) within thirty days of the first appearance of the respondent.”.

7. Amendment of section 115 of Act V of 1908.- In the Act, in section 115:

(a) in subsection (1), in the second proviso, for the word “six”, the word “three” shall be substituted;

(b) in subsection (2), for the full stop at the end, the expression “, and the District Court shall decide the application within two months from the date of first appearance of the respondent.” shall be substituted.

8. Amendment of section 128 of Act V of 1908.- In the Act, in section 128, in subsection (2):

(a) in clause (i), the word “and” appearing after the semicolon shall be omitted;

(b) in clause (j), for the full stop at the end, the expression “; and” shall be substituted;

(c) after clause (j), the following new clause (k) shall be added

“(k) case management.”.

9. Substitution of section 141 of Act V of 1908.- In the Act, for section 141, the following shall be substituted:

“141. Proceedings regarding interlocutory applications. -

(1) The Court hearing a suit shall concurrently hear the interlocutory applications filed in the suit according to such timelines and in such manner as may be prescribed.

(2) The filing of any application under subsection (1), including an application for the rejection of the plaint or dismissal of a suit, shall be no ground to halt the proceedings in the suit or to dispense with or waive the requirement of filing a written statement within the timelines as provided in this Code.”.

10. Insertion of section 159 in Act V of 1908.- In the Act, after section 158, the following section 159 shall be inserted:

“159. Savings of proceedings. - All proceedings instituted prior to coming into force of this Ordinance shall be dealt in accordance with the provisions of the Act which existed prior to coming into force of this Ordinance.

Explanation. In this section, the expression “proceedings” includes suits, appeals, reviews, revisions, execution applications and anything incidental thereto.”

ⁱ [1] This Act, which amended the Code of Civil Procedure, 1908 (V of 1908); was passed by the Punjab Assembly on 29th April 2020; assented to by the Governor of the Punjab on 29th April 2020; and, was published in the Punjab Gazette (Extraordinary), dated 29 April 2020, pages 3977-80.



The Punjab Gazette

PUBLISHED BY AUTHORITY

LAHORE WEDNESDAY APRIL 29, 2020

GOVERNMENT OF THE PUNJAB LAW AND PARLIAMENTARY AFFAIRS DEPARTMENT NOTIFICATION

29 April 2020

No.Legis:13-49/2016: The following Ordinance promulgated by Governor of the Punjab is hereby published for general information:

THE CODE OF CIVIL PROCEDURE (PUNJAB AMENDMENT) ORDINANCE 2020

(VIII OF 2020)

An Ordinance

to amend the Code of Civil Procedure, 1908.

It is expedient to amend the Code of Civil Procedure, 1908 (*V of 1908*) to bring procedural reforms for smooth and swift dispensation of justice; for reduction of backlog of civil cases; and for the matters ancillary thereto.

Provincial Assembly of the Punjab is not in session, and Governor of the Punjab is satisfied that circumstances exist which render it necessary to take immediate action.

In exercise of the powers conferred under clause (1) of Article 128 of the Constitution of the Islamic Republic of Pakistan, Governor of the Punjab is pleased to make and promulgate the following Ordinance:

1. Short title and commencement.— (1) This Ordinance may be cited as the Code of Civil Procedure (Punjab Amendment) Ordinance 2020.

(2) It shall come into force at once except the provisions for electronic maintenance of records and proceedings which shall come into force on such date as the Government may by notification in the official Gazette appoint.

2. Substitution of section 3 of Act V of 1908.— In the Code of Civil Procedure, 1908 (*V of 1908*), for brevity referred to as 'the Act', for section 3, the following shall be substituted:

"3. Hierarchy of Courts.- For purposes of this Code, the hierarchy of Civil Courts shall be the same as provided in the Punjab Civil Courts Ordinance, 1962 (II of 1962).".

3. Substitution of section 26 of Act V of 1908.- In the Act, for section 26, the following shall be substituted:

"26. Institution of suits through plaint.- (1) Every suit shall be instituted by presentation of a plaint in such manner as may be prescribed.

(2) The plaintiff shall file as many copies of the plaint and accompanying documents with the plaint as there are defendants to the suit, to be sent along with the summons.

(3) It shall be duty of the Court to maintain electronic records of the proceedings in suits in such manner as may be prescribed.

Explanation. For purposes of this subsection, the word "suits" includes any proceeding in applications, appeals, reviews, revisions or anything incidental thereto.

26A. Written statement.- (1) The defendant shall file written statement not later than thirty days from the date of his first appearance in the Court.

(2) The defendant shall provide additional copies of written statement and of the documents annexed therewith for each of the parties and for the Court.

(3) If the defendant fails to file the written statement within the time frame provided under subsection (1), the Court shall close the right to defend the case.

26B. Framing of issues, filing of list of witnesses, recording of evidence and hearing of final arguments.- (1) The Court shall, within seven days of filing of the written statement, frame issues.

(2) The parties may, within seven days of framing of the issues, raise objections on such issues, and shall provide a list of witnesses and certificate of readiness for production of evidence.

(3) Upon framing of the issues, filing of the list of witnesses and certificate of readiness for production of evidence, the Court may itself record the evidence or may direct a Commission to record the evidence in the prescribed manner.

(4) For purposes of subsection (3), the Court shall appoint a Commission from a list of approved panel, comprising of advocates and retired judges, maintained by the District Judge concerned, on payment of such fee and terms and conditions as may be determined by the Court.

(5) The Court or the Commission, as the case may be, shall complete recording of evidence and proceedings in writing and through audio and video recording within ninety days of fulfilment of the requirements contained in subsection (3).

(6) The Court, upon completion of evidence of the parties, shall complete the hearing of final arguments of the parties within twenty days:

provided that the parties may file written arguments in the Court within the time frame under this subsection.”.

4. **Insertion of section 27A in Act V of 1908.**- In the Act, after section 27, the following section 27A shall be inserted:

“27A. Process of summons.- (1) The summons shall be issued simultaneously, unless otherwise ordered by the Court, to the defendant, by registered post acknowledgment due and another copy of the summons by courier service signed and sealed in such manner as may be prescribed, or as the Court may determine, by urgent mail service of Pakistan Post, at the expense of the plaintiff.

(2) The Court shall order simultaneous service by-

(a) affixing a copy of the summons at some conspicuous part of the house in which the defendant is known to have last resided or carried on business or personally worked for gain;

(b) any modern device including electronic device of communication which may include mobile, telephone, telegram, phonogram, telex, fax, radio, television etc. in the prescribed manner;

(c) urgent mail service or public courier services;

(d) publication in the press in the prescribed manner; and

(g) any other manner or mode as it may deem fit.

(3) Location of the process server serving the summons shall be monitored by modern devices in the prescribed manner, and the process server shall take photograph of the defendant or the premises or the person accepting service of summons on behalf of the defendant, which shall be made part of the record as a proof of service of the process.”.

5. **Substitution of section 96 of Act V of 1908.**- In the Act, in section 96, in subsection (1), for the full stop at the end, the expression “, and the Court shall decide the appeal within sixty days from the date of first appearance of the respondent in appeal.” shall be substituted.

6. **Amendment of section 106 of Act V of 1908.**- In the Act, for section 106, the following shall be substituted:

“106. What Courts to hear appeals.- (1) Where an appeal from any order is allowed, it shall lie to the Court to which an appeal would lie from the decree in the suit in which such order was made, or where such order is made by a Court not being the High Court in exercise of appellate jurisdiction, then to the High Court.

(2) A Court shall decide an appeal under subsection (1) within thirty days of the first appearance of the respondent."

7. Amendment of section 115 of Act V of 1908.- In the Act, in section 115:

- (a) in subsection (1), in the second proviso, for the word "six", the word "three" shall be substituted;
- (b) in subsection (2), for the full stop at the end, the expression ", and the District Court shall decide the application within two months from the date of first appearance of the respondent." shall be substituted.

8. Amendment of section 128 of Act V of 1908.- In the Act, in section 128, in subsection (2):

- (a) in clause (i), the word "and" appearing after the semicolon shall be omitted;
- (b) in clause (j), for the full stop at the end, the expression "; and" shall be substituted;
- (c) after clause (j), the following new clause (k) shall be added
"(k) case management."

9. Substitution of section 141 of Act V of 1908.- In the Act, for section 141, the following shall be substituted:

"141. Proceedings regarding interlocutory applications.- (1) The Court hearing a suit shall concurrently hear the interlocutory applications filed in the suit according to such timelines and in such manner as may be prescribed.

(2) The filing of any application under subsection (1), including an application for the rejection of the plaint or dismissal of a suit, shall be no ground to halt the proceedings in the suit or to dispense with or waive the requirement of filing a written statement within the timelines as provided in this Code."

10. Insertion of section 159 in Act V of 1908.- In the Act, after section 158, the following section 159 shall be inserted:

"159. Savings of proceedings.- All proceedings instituted prior to coming into force of this Ordinance shall be dealt in accordance with the provisions of the Act which existed prior to coming into force of this Ordinance.

Explanation. In this section, the expression "proceedings" includes suits, appeals, reviews, revisions, execution applications and anything incidental thereto."

(MOHAMMAD SARWAR)
GOVERNOR OF THE PUNJAB

Dated 29/04/2020

NAZIR AHMAD GAJANA
Secretary
Government of the Punjab
Law and Parliamentary Affairs Department