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PART I—Orders and Notifications by the Governor of West Bengal, the High Court, Government Treasury etc.

HIGH COURT, CALCUTTA

Appellate Side

NOTIFICATION

CASE FLOW MANAGEMENT RULES
HIGH COURT RULES 2006.

No. 4680-G.— 6th December, 2006.— In exercise of the power conferred by Part X of the Code of Civil Procedure 1908, (5 of 1908) and all other powers, the Calcutta High Court hereby makes the following Rules, in regard to case flow management in the Subordinate Courts.

Rules for Trial Courts and Appeal before Subordinate Courts

I. ORIGINAL SUIT :

Division of Civil Suits into Tracks :

1. Based on the nature of the disputes, the nature and quantum of evidence to be recorded and the time likely to be taken for the completion of the various types of the suits, the suits shall be channelled into three different tracks.

Track 1 - shall include simple suit for Recovery of Money; Matrimonial suits including suits for Custody, Maintenance, Eviction, Uncontested Probate, Administration and Succession; Proceedings under the Arbitration and Conciliation Act.

Track 2 - shall include Commercial suit; Title suit of all nature including Partition and Mortgage suit; suit based on Negotiable Instruments; suit involving disputes as regards Trademarks, Copyrights and other intellectual property-right-matters.

Track 3- shall include all other suits.

Efforts shall be made ordinarily to complete the suits in track 1 within the period of twelve months, track 2, within eighteen months and the suits in track 3, within twenty-four months.

It will be for the Judge concerned to make an appropriate assessment as to the track to which any case can be assigned.

2. Once in two months, the registry/administrative-staff of each Court will prepare a report as to the stage and progress of the case and place the report before the Court. When the matters are listed on each day, the Judge concerned may take such decision as he may deem fit in the presence of the counsel/parties in regard to each case for removing any obstacles in the service of summons and completion of the pleadings etc. with a view to make the case ready for disposal.
3. The Judge, referred to in clause (2) above, may shift a case from one track to another depending upon circumstances of the case.

4. Where computerization is available, the data will be fed into the computer once in two months in such a manner that the Judge, referred to in clause (2) above, will be able to ascertain the position and the stage of every case in every track from the computer screen. Where computerization is not available, the monitoring must be done manually.
5. The Judge, referred to in clause (2) above, shall monitor and control the flow of progress of every case, either from the computer or from the register or data placed before him in the above manner or in some other manner he may innovate.

FIXATION OF TIME-LIMITS WHILE ISSUING NOTICE :

- (a) Whenever a notice is issued in a suit, the same should indicate that the written statement shall be filed on a date which is not beyond 30 days. The matter will be listed on the expiry of eight weeks from the date of issue of the notice or so soon, as the business of the Court will permit.
- (b) The notice referred in clause (a) shall be accompanied by a legible and distinct complete copy of the plaint and all its annexure/enclosures and copies of the interlocutory applications, if any.
- (c) If interlocutory application is filed along with the plaint, and if an ex parte interim order is not passed and the Court is desirous of hearing the defendant, it may while sending the notice along with the plaint, fix an earlier date for the hearing of the application depending upon the urgency of the interim relief.

PROCEDURE ON THE GRANT OF INTERIM ORDERS :

- (a) If an ex parte interim order is granted, the defendants will have the option of moving appropriate applications for vacating the interim order even before the returnable date indicated in the notice and if such an application is filed, it shall be listed as soon as possible, even, before the returnable date.
- (b) If the Court passes an ad-interim ex parte order on an interlocutory application and the objection by the defendants is filled, and if, thereafter, the plaintiff fails to file the rejoinder within the time granted by the Court without good reason, the Court shall proceed to dispose of the matter forthwith. The plaintiff may, if he so chooses, waive his right to file a rejoinder.

REFERAL TO ALTERNATIVE DISPUTE RESOLUTION :

When the suit reaches the stage under Order X of the Code of Civil Procedure, the Court shall explore the possibility of settlement outside Court in terms of Section 89(1) of the Code of Civil Procedure by following the procedure laid down in Alternative Dispute Resolution and Mediation Rules.

PROCEDURE ON THE FAILURE OF ALTERNATIVE DISPUTE RESOLUTION :

- (a) On the filing of report by the Mediator under the Mediation Rules that efforts at Mediation have failed, or a similar report by the Conciliator under the provisions of the Arbitration and Conciliation Act, 1996, or a report of "no settlement" in the Lok Adalat Under the provisions of the Legal Services Authority Act, 1987, the suit shall be placed before the Court within a period of 14 days. Thereafter, the suit shall proceed for disposal from the stage of Order XI of the Code of Civil Procedure. The suit shall be listed before the Court within 21 days thereafter for framing of issues.
- (b) When the suit is listed after the failure of the attempts at conciliation, arbitration or Lok Adalat, as the case may be, the Judge may nevertheless inquire at any subsequent stage whether it is still possible for the parties to resolve the dispute.

MISCELLANEOUS APPLICATIONS :

The proceedings in a suit shall not be stayed merely because of the filing of any Miscellaneous Application in the course of suit unless the Court in its discretion expressly thinks it necessary to stay the proceedings in the suit.

FILING OF WRITTEN NOTES OF SUBMISSIONS :

Both the plaintiffs and the defendants shall be required to submit their written notes of submissions within three days of the conclusion of the hearing of the suit.

II. APPEALS TO SUBORDINATE COURTS :

FIXATION OF TIME LIMITS IN INTERLOCUTORY MATTERS :

Whenever a notice is issued by the appellate Court in connection with the interlocutory matters, the notice should indicate the date by which the reply should be filed. The rejoinder, if any, should be filed within two weeks of receipt of the reply or earlier, if the Court so directs. If there are more parties than one who are the Respondents, each one of the Respondent should comply with this requirement within the time-limit and the rejoinder may be fixed within one week from the receipt of the last reply or even earlier, if the Court so directs.

STEPS FOR COMPLETION OF ALL FORMALITIES :

The appeal shall be placed before the Court from the time to time to make the appeal ready for hearing.

PROCEDURE ON GRANT OF INTERIM ORDERS :

- (a) If an interim order is granted at the first hearing by the Court in cases where the Respondents did not appear at the first hearing, the Respondents will have the option of moving appropriate application and if such application is filed, it shall be listed as soon as possible, even, before the returnable date.
- (b) If the Court passes an ad-interim ex-parte order, and if the reply is filed by the Respondent and if, without good reason, the appellant fails to file the rejoinder, Court shall proceed to dispose of the matter forthwith. The appellant may, however, waive his right to file the rejoinder. Unless the Court otherwise directs, such choice shall be conveyed to the registry on or before the date fixed for filing of the rejoinder. Such communication of option by the applicant to the registry will be deemed to be the completion of the pleadings.

FILING OF WRITTEN NOTES OF SUBMISSIONS :

Both the appellants and the respondents shall be required to submit their written notes of submissions within three days of the conclusion of the hearing of the appeal.

COSTS :

Awarding of costs must be treated generally as mandatory. Costs should invariably follow the events and reasons must be assigned by the appellate Court for not awarding costs. If any of the parties have unreasonably protracted the proceedings, the Judge shall have the discretion to impose exemplary costs after taking into account the costs that might have been imposed at the time of adjournments granted by the Appellate Court in course of the proceedings.

III. CRIMINAL TRIALS IN THE SUBORDINATE COURTS .

- (a) Criminal Trials should be classified on the basis of nature of offences, sentence to be imposed and on consideration of the fact whether the accused is on bail or in jail.
- (b) (i) Cases involving Capital punishment or Imprisonment for life, under the N. D. P. S. Act, under Sections 376, 395 and 397 of the Indian penal Code, relating to terrorism or offences against the State enumerated in Chapter VI of the Indian Penal Code and cases where any accused being continuously in jail/Correctional Home for more than three months is facing trial from the jail or Correctional Home should be placed in Track 1.
- (ii) Cases in which large number of persons are involved, such as, cases of mass cheating, economic offences, illicit liquor tragedy, food adulteration and the cases of adulterated, spurious or misbranded drugs and the cases under the Prevention of Corruption Act should be placed in Track 2.
- (iii) All other cases should be placed in Track 3.
- (c) Endeavour should be made to complete the cases in Track 1 within 9 months, the cases in Track 2 within 12 months and the cases in Track 3 within 15 months from the date of framing the charge or taking the plea.

IV. CRIMINAL APPEALS TO THE SUBORDINATE COURTS :

- a) Where the appellate court has not suspended the sentence under section 389 of the Code of Criminal Procedure, effort shall be made to hear and dispose of the appeal within six weeks.
- b) Effort shall be made to hear and dispose of all other criminal appeals within three months.

FILING OF WRITTEN NOTES OF SUBMISSIONS :

Both the appellants and the respondents shall be required to submit their written notes of submissions within three days of the conclusion of the hearing of the appeal.

Raghunath Ray
Registrar General -in-charge.