

## <sup>1</sup> CHAPTER IX-A

### INTERIM APPLICATIONS

**121 IX-A. *Interim Applications*** – All applications for interim relief in any matter shall be filed and numbered in the Registry as Interim Applications in the main Proceedings. Every such application, after description of parties, shall state in bold letters as to under which provisions of law the interim Application has been filed.

**122 IX-A. *Interim Applications to appear on Board*** – All interim applications shall be listed on the date assigned by the Registry provided that the Court may, in its discretion and on an application made by praecipe specifying the urgency and need for urgent reliefs, direct such interim Application to be taken up on any earlier date. At least 48 hours' notice shall be given by the party seeking such urgent reliefs to the opposite parties. Nothing in the rule shall preclude any Court from passing an *ex parte* order in appropriate cases.

**123 IX-A. *Applications in Execution, etc.*** – Applications for confirming sales in execution, or under a decree, whether held by the Sheriff or by the Commissioner for taking Accounts or by the Receiver shall also be by way of Interim Applications.

**124 IX-A. *Interim Applications to be heard by Court hearing principal matter*** – All Interim Applications be heard by the Court to which the principal matters are assigned.

**125 IX-A. Form of Interim Applications.** – Every Interim Application shall be in the form of a petition setting out therein a brief statement of the relevant facts, the grounds in support of such application, a specific reference to the provision of the Code of Civil Procedure, 1908, these Rules or any other law under which it is made, prayers in the form of reliefs sought; and shall be signed, verified and affirmed in the same manner as a petition. No separate Affidavit in Support of such Interim Application shall be required.

**126 IX-A. Signed undertaking required** – Every Interim Application shall, in addition to the above, contain, in the body of the Interim Application, a signed statement of the party making such Application undertaking to pay such sum by way of damages or costs as the Court may award as compensation in the event of a party affected sustaining prejudice by any order that might be made on such Interim Application. The Court may, in its discretion, while making the order on the Interim Application dispense with undertaking.

**127 IX-A. Notice to opposite party** - Notice of any Interim Application shall be given by the party making the application to the opposite party and shall be not less than seven days before the returnable date of such Interim Application, unless otherwise provided by the Court.

**128 IX-A. Filing of reply by the Opponents/Respondents named in the Interim Application** – The Opponent(s)/Respondent(s) shall file his/their Affidavit or Affidavits in Reply, if any, together with copies of documents on which they rely no later than three days prior to the date fixed by the Court in the notice or on any subsequent dates to which the proceedings have been adjourned with the leave of the Court.

**129 IX-A. No Affidavit in Rejoinder without leave** – No Affidavit in Rejoinder shall be filed without leave of the Court.

**130 IX-A. Procedure at the hearing of the applications** – All the applications under these rules be decided on the basis of affidavits of the parties.

**131 IX-A. Powers of Officer designated by Prothonotary and Senior Master to decide Interim Applications** – The High Court may by general or special notification confer the power of the Court to decide certain interim applications on the Prothonotary and Senior Master.

® In exercise of powers conferred under amended Rule 131 IXA of Bombay High Court Original Side Rules, 1980, the High Court directs that following matters shall be disposed of by the Prothonotary and Senior Master:-

- (1) Applications for the appointment of a guardian-ad-litem of a minor.
- (2) Applications for the appointment of a new next friend or a new guardian-ad-litem of a minor.
- (3) Applications for substituted service of the writ of summons and other process.
- (4) Uncontested Applications to amend the plaint or subsequent proceedings or to strike out any matter therein.
- (5) Applications arising from the death, marriage or insolvency of parties to suits, matters or appeals or from the assignment, creation or devolution of any estate or title *pendente-lite*.
- (6) Application relating to the conduct or frame of suits previous to the hearing, unless the suit is on one of the boards for the day.
- (7) Applications for leave to sue or defend as an indigent person.
- (8) Applications for discovery and for productions and inspection of documents.
- (9) Application for the taxation and delivery of bills of costs of attorneys.
- (10) Applications for the delivery by an Attorney of deeds, documents and papers.
- (11) Applications for the delivery by an Advocate on record of deeds, documents and papers.

(12) Application under rule 73 and 75 for fixing the returnable date of the writ of summons.

(13) Application under rule 87 for an order that the suit be not placed on Board for dismissal.

(14) To grant refund of Court Fees when orders are passed under rule 163.

(15) Application under rule 176 to enlarge the time to file interrogatories, etc.

(16) Applications under rule 185 for payment of expenses to witnesses.

(17) Application under rule 187 or 188 for discharge or change of advocate, except when such applications are made in criminal case under the companies act, 1956, or the banking regulation act, 1949, in such cases the said applications shall be referred to and heard by the company judge seized of the criminal case.

(18) Assignment of Advocate under rule 215 to assist suitors in matters filed by indigent persons.

(19) Application under rule 448 for an order directing the Sheriff to accept the writ of summons for service.

(20) Application under rule 631 for translation of document.

(21) Suits (except the commercial suits) for directions as to which List of Suits should be transferred after service is effected and consequential orders thereto.

Such of these matters or categories of matters as may be delegated by the Prothonotary and Senior Master to the Additional Prothonotary and Senior Master shall be disposed of by the Additional Prothonotary and Senior Master; subject to approval of the Hon'ble the Chief Justice:

Provided that where any matter appears to the Prothonotary and Senior Master or the Additional Prothonotary and Senior Master proper for the decision of a Judge, the Prothonotary and Senior Master or the Additional Prothonotary and Senior Master may refer the same to the Judge in Chambers, and the Judge may either dispose of the matter or refer the same back to the Prothonotary and Senior Master or the Additional Prothonotary and Senior Master with such directions as he may think fit.

**132 IX-A. *Adjournment of matter to Court*** – Any party desiring to have any question to be decided by the Prothonotary and Senior Master, whether disputed or not, adjourned to Court, may apply to the Prothonotary and Senior Master for such adjournment within 4 days from the passing of the order. If the application is within time, the Prothonotary and Senior Master shall adjourn the matter and list it before the Court assigned to hear such matters. If the party makes the application after the said period of four days, the Prothonotary and Senior Master may adjourn the matter to Court if he is satisfied that the party had sufficient cause for not making the application in time. The Prothonotary and Senior Master may also *suo-motu* adjourn any matter to Court.

**133 IX-A. *Interlocutory orders passed not to be drawn up*** – Orders made on interim applications shall not be drawn up.

**134 IX-A. *Drawing up of orders required to be drawn up as decrees.*** – (a) The provisions of the Code of Civil Procedure, 1908 relating to drawing up of decrees shall apply *mutatis mutandis* to orders required to be drawn up as decrees.

(b) Draft of such drawn up decrees shall be posted on the High Court Website under the Case Status section and shall also be emailed to the

Advocate on Record or the Party concerned to the email address provided and shall also be put up on the notice board of the decree department.

(c) Any Advocate or party may inspect such draft in the Decree Department on an oral application.

(d) If no objection is raised by the Advocate or party concerned to the form or contents of the drawn up decree or order within the time fixed for the same, the draft shall be settled and finalized by the officer designated for that purpose.

(e) Any Advocate or party dissatisfied with the finalized drawn up decree or order may apply to the Prothonotary and Senior Master within one week of the date of finalization to have the same placed before Court, failing which the finalized and settled draft shall be deemed to have been accepted. If the draft is so placed before the Court, any variation made by the Court shall forthwith be incorporated in the draft.

(f) All final drawn up decrees and orders shall be signed by the Registrar (OS/ Prothonotary and Senior Master or by a designated officer, and shall bear the seal of the Court.

(g) Orders passed by a Court which have not been signed by the Judge and which have been ordered to be drawn up; and all orders passed by the Prothonotary and Senior Master and ordered to be drawn up, shall be signed by the Prothonotary and Senior Master and shall bear the seal of the Court.

1. Inserted by Notification No.G/Amend/12878., dated 5.10.2018

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