

## CHAPTER XVII

### PETITIONS UNDER ARTICLES 226 AND 227 AND APPLICATIONS UNDER ARTICLE 228 OF THE CONSTITUTION AND RULES FOR THE ISSUE OF WRITS AND ORDERS UNDER THE SAID ARTICLES

**<sup>1</sup>1. (i) Applications for issue of writs, directions, etc. under Article 226 of the Constitution.** — Every application for the issue of a direction, order or writ under Article 226 of the Constitution shall, if, the matter in dispute is or has arisen substantially outside Greater Bombay, be heard and disposed of by a Division Bench to be appointed by the Chief Justice. The application shall set out therein the relief sought and the grounds on which it is sought. It shall be solemnly affirmed or supported by an affidavit. In every such application, the applicant shall state whether he has made any other application to the Supreme Court or the High Court in respect of the same matter and how that application has been disposed of.

**(ii) Applicant to inform Court, if, during pendency of an application, the Supreme Court has been approached.** — If the applicant makes an application to the Supreme Court in respect of the same matter during the pendency of the application in the High Court, he shall forthwith bring this fact to the notice of the High Court by filing an affidavit in the case and shall furnish a copy of such affidavit to the other side.

**(iii) Hearing may be adjourned pending decision by Supreme Court.** — The Court may adjourn the hearing of the application made to it pending the decision of the Supreme Court in the matter.

**2. (i) Accompaniments to the application.** — The applicant shall annex to his application typed copies of judgments and/or orders of the lower Courts or Tribunals and of affidavits and other relevant documents which are in English, or, where any of such documents are not in English, typed copies of translations in English of such documents. He shall file along with the application a duplicate copy of the application with the said annexures for the use of the Court. Both the original and the duplicate copy with the prescribed annexures shall be duly paged and indexed:

<sup>2</sup>[Provided that such translations would not be necessary if the documents are in Marathi and if the party or the Advocate undertakes that English translations would be supplied whenever an order in that respect is made by the Court in a particular proceeding.]

**(ii) Translations.** — Any translations, other than official translations, annexed to the application shall be either certified to be true by the Advocate for the applicant or supported by an affidavit of the applicant affirming that the translations are true.

**(iii) Accompaniments to applications against orders of Revenue Tribunal.** — In applications against the orders of the Revenue Tribunal, the applicant shall, in addition, file a true copy each of the judgment and/or order of the Revenue Tribunal

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<sup>1</sup> Subs. by Notification No. P3601/2013, dt. 27-08-2013, M.G.G.-IV-C, dt. 28.08.2013

<sup>2</sup> Added by Notification No. P. 3603/86 dated. 6-8-1986

and certified copies of the judgments and/or orders of the Prant Officer, Mamlatdar or such other officer concerned in the proceedings.

**(iv) Accompaniments to applications against orders of Election Tribunal.** — In an application against the order of an Election Tribunal, the applicant shall, in addition to the annexures and accompaniments specified above, supply a typed copy of the memorandum of the application.

### **3. Notwithstanding anything contained in any other rules—**

**(i) Examination of applications.** — The office shall examine the applications as expeditiously as possible and in any case complete the examination and keep the memoranda of objections in duplicate ready within six days from the date of filing;

**(ii) Manner of notifying office objections.** — As soon as the memorandum of objections is ready, the office shall notify the matter on a special Notice Board under the signature of the Assistant Registrar calling upon the party or the Advocate concerned to remove the office objections within 14 days from the date of such notification. The matters shall be notified with reference to the Stamp numbers or the Register numbers, as the case may be, the District from which they arise and the names of the Advocates, if any. A copy of the notice shall be kept filed in the office and a copy of the same shall be supplied to the Advocates Association of Western India. The office shall also endorse on the memorandum of objections and its duplicate the dates on which the matter was notified as above;

**(iii) Period within which office objections should be removed.** — The Advocate or the party concerned shall receive a copy of the memorandum of objections after acknowledging receipt thereof and shall remove all the office objections within the 14 days allowed under the foregoing sub-rule failing which the matter shall forthwith be placed before the Registrar, and the Registrar shall refuse registration:

**Registrar's powers to excuse delay in removing office objections.** — Provided, however, that, if the party or the Advocate removes all objections within a period of 14 days next after the expiry of the period prescribed under sub-rule (ii) above and also makes a regular application with the necessary court-fee stamp for excuse of delay in removing the objections, the Registrar may excuse the delay and order that the matter be registered;

**(iv) Special provision for party appearing in person.** — Notwithstanding anything contained in the foregoing sub-rules where a party appears in person, the office shall arrange to give him under acknowledgment the memorandum of objections on the very day on which he presents the matter, unless the party agrees to call at a later date, in which case the office may give him a fixed date convenient to him (but not later than six days from the date of the presentation of the matter) on which he should call at the office for receiving the memorandum of objections, and the office shall keep the memorandum of objections ready on the said day and deliver it to him under acknowledgment. The party in such cases shall be required to remove the objections within a period of 14 days from the date of the receipt of the memorandum of objections. In case the party fails to turn up on the appointed day, the procedure prescribed under sub-rules (ii) and (iii) shall be followed;

**(v) Special procedure where matters are required to be placed before Court, before removal of office objections.** — Notwithstanding anything contained in the foregoing sub-rules, any application, which a party or an Advocate requires to be placed before the Court before removal of office objections, shall be registered subject to office objections, and may, subject to special or general order of the Court taking such matters, be placed before the Court, provided that the party, where he appears in person, and in all other cases, the Advocate undertakes in writing personally to remove all office objections including objections as regards court-fee. If rule is issued on any such application or ex parte order such as an order of injunction against a party, stay of execution of decree or an order, stay of further proceedings, etc., is made in respect of any such application pending the issue of rule or simultaneously, with the issue of rule, the office shall specify all objections within three days (excluding holidays) from the date of the order directing issue of rule or making such ex parte order, and the party or the Advocate as the case may be <sup>3</sup>[shall remove the office objection within 14 days from the date of the Court's order admitting the matter failing which the matter shall be placed before the Court which may dismiss it for want of prosecution ]:

<sup>4</sup>The First Proviso.

**Certain objections to be waived if the matter is summarily rejected,—** Provided that, where an application is summarily rejected, all office objections except those relating to court- fee and Vakalatnama and those on which the objections relating to court-fee are based, shall be waived.

**<sup>5</sup>4. Division Bench to dispose of the application; rule nisi may be granted by a Single Judge.** — Applications under Rule I shall be heard and disposed of by a Division Bench; but a single Judge may grant rule nisi, provided that he shall not pass any final order on the application.

**5. Summary rejection of the application and rule nisi.** — The Court may either summarily dismiss the application or order rule nisi to be issued against the opponent against whom it is sought, as it deems fit. Any rule so granted shall be made returnable, except as otherwise ordered by the Court, within a period which shall not be less than 14 days after the service thereof on the opponent.

**6. Interim or interlocutory orders.** — If the Court grants rule, it may make such interim or interlocutory order in the case, either unconditionally or upon such terms and conditions as the Court thinks just, as the nature and the circumstances of the case may require.

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<sup>3</sup> Substituted by Notification No.P3603/86, Dt.7-8-1986.

<sup>4</sup> Deleted by Notification No. P3603/86 dt.7.8-1986.

<sup>5</sup> Subs. by Notification No. P3601/2013, dt. 27-08-2013, M.G.G.-IV-C, dt.28-08-2013

**7. Taxing of process fees.** — Notwithstanding anything contained in any other rules —

**(i) The office shall tax the process fees.** —

(a) within three days from the date of the issue of rule by the Court in ordinary cases; <sup>6</sup>[and also from the date of issue of notice before admission.]

(b) immediately on the removal of the office objections in matters where rule has been ordered to be issued subject to office objections; and

(c) immediately on the passing of the order by the Court in matters where an ex parte order of the kind referred to in Rule 3(v) above is made;

**(ii) Payment of process fees and supply of copies of application.** — The applicant or his Advocates shall pay process fees and supply, unless otherwise directed by the Court, as many typed copies of the application with the annexures as prescribed in Rule 2 as there are respondents —

(a) within 14 days from the date of the issue of rule in ordinary cases;

(b) immediately on the removal of the office objections in cases where rule has been ordered to be issued subject to office objections; and

(c) immediately on the passing of the order in matters where an ex parte order of the kind referred to in Rule 3(v) above is made;

**(iii) Application to be dismissed in case of default of payment of process fees or failure to supply copies.** — When the process fees are not paid and/or the requisite number of copies of the application are not supplied within the time prescribed under sub-rule (ii) above, the application shall be placed forthwith before the Registrar for orders and the Registrar shall dismiss the application for failure to prosecute:

**Registrar's powers to excuse delay in payment of process fees and supply of copies.** — Provided, however, that, if the party or the Advocate pays the, necessary process fees and/or supplies, the necessary copies within a period of 14 days next after the period prescribed for the same under the foregoing sub-rule of this rule and also makes a regular application with the necessary court-fee stamp for excusing the delay, the Registrar may excuse the delay and order that the process be issued.

**(iv) Stay order not to be communicated unless process fees are paid and copies are supplied.** — No communication of any ex parte order of the kind mentioned in Rule 3(v) above shall be sent by writ or otherwise to the lower Court or Tribunal or Authority or to the opposite party, unless the requisite process fees are paid and the necessary number of copies of the application with annexures is supplied both in the main matter) if any, and in the Civil Application in which the ex parte order is made.

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<sup>6</sup> Notification No.P.3607/98, dated 24-7-1998, published in M.G.G. Dt. 5-11-1998, Part 4-C,page 1220.

**(v) Affected party may move Court for discharge of stay, after notice to the other party.**—A party against whom an ex parte order of stay, injunction, etc., has been passed by the Court shall be entitled to approach the Court for getting the stay order discharged after giving 24 hours' notice to the party or parties who are likely to be affected by such order of discharge, if it is passed by the Court.

**8. (i) Service of rule nisi.** — Rule nisi granted as above shall, along with a copy of the interim or interlocutory order, if any, be served on the opponent in the manner prescribed in Order V of the Code of Civil Procedure, 1908, for service of a summons upon a defendant in a suit.

**(ii) Special provision for service on Public Officers in Greater Bombay and Nagpur.** — Where a Public Officer whose office is situated in Greater Bombay, Nagpur City <sup>7</sup>[or Aurangabad City] is to be served in his official capacity with the notice of any rule issued in a proceeding under this Chapter, service of the notice may be effected by delivering or tendering a copy of such notice to such officer or any subordinate of such officer not lower in rank than a Superintendent or a Head Clerk in his office, and obtaining the signature of such officer or his subordinate on the original in token of receipt of the notice.

**iii) Procedure where rule is unserved or not properly served.** — If the notice of rule issued in any case is returned unserved or without being properly served the following procedure shall be followed ;—

**(a) List of rules not served or not properly served, to be published.** — The office shall on the first working day of the week place on the Notice Board under the signature of the Assistant Registrar a list of such cases stating therein —

(1) the number of the case,

(2) the name of the Advocate for the applicant, if any,

(3) the name of the opponent on whom the notice of rule has been returned unserved or not properly served,

(4) the date of the return made to the Court by the Officer serving the notice, and

(5) the date on which the unserved or not properly served notice of rule was received in the office.

**(b) Publication of the list to be sufficient notice.** — The publication of such list shall be deemed sufficient notice to the applicant or his Advocate of the non-service or of the service not being proper. A copy of such list shall be supplied to the Advocate's Association of Western India for its use.

**(c) Action for fresh service etc. to be taken within 14 days of publication of list.** — A party or the Advocate shall within 21 days from the date of the publication of the list on the Notice Board take the necessary steps for getting the notice of rule served where it has been returned unserved, or to get it properly served as required

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<sup>7</sup> Added by Notification No. P. 3601/82, Dt. 29-4-1983.

under Rules 20, 20-A and 21-A of Order V of the Code of Civil Procedure, 1908, where it is not properly served.

**(d) Dismissal for failure to prosecute.** — Immediately on the expiry of the said period of 14 days if no steps have been taken by the party or the Advocate to get the notice of rule served or properly served, the office shall forthwith place the matter before the Registrar and the Registrar shall dismiss the matter for failure to prosecute:

**Registrar's power to excuse delay in taking action in regard to service of Rule**—Provided, however, that, if the party or the Advocate takes necessary steps to get the notice of rule served or properly served within 14 days next after the period prescribed under the foregoing sub-rule and also makes a regular application with the necessary court-fee stamp for excusing the delay, the Registrar may excuse the delay and order the matter to be proceeded with.

**(iv) Procedure when a party dies.** — The following procedure shall be followed where an applicant or an opponent dies during the pendency of the application:—

(a) The applicant or his legal representative, as the case may be, shall apply within 90 days from the date of the death of the deceased party to bring the legal representative or representatives of the deceased party on record.

(b) If such an application is made within such period of 90 days and if there is no dispute as to who the legal representative is, the Registrar shall grant such application and amend the record by bringing the proposed legal representative or representatives on record.

(c) If no such application is made within the said period of 90 days, or such application is made beyond the said period, or there is a dispute as to who the legal representative is, the main application, along with the application or applications for bringing the legal representative or representatives on record, if any, shall be placed before the Court for orders.

**9. Receipt of Record and Proceedings to be notified before hearing.** — The Record and Proceedings called for shall be notified immediately on receipt of the same in the office and the application shall not be placed before the Court for hearing before the expiry of seven days from the date of the notification of the Record and Proceedings, unless otherwise ordered by the Court.

**10. (i) Contents of paper-books.** — Paper-books for the purposes of this rule shall include the petition or the application and its annexures, affidavits in support of the petition or the application, counter affidavits and affidavits in reply and any other document or copy of document intended to be read or perused by the Court at the hearing of the application.

**(ii) Manner of printing, typing, etc. of paper-books, their indexing and paging,** — Paper-books shall be neatly and legibly, typewritten, cyclostyled or printed with double space between lines and <sup>8</sup>[use superior quality A4 size paper having not less than 75 GSM with printing on both sides of the paper with Font – Times New Roman or Georgia, Font size 14 with inner margin of 5 cms and outer

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<sup>8</sup> Substituted by notification No. P. 1604/2021, dated 6<sup>th</sup> July 2021.

margin 3 cms.] Every tenth line shall be numbered in the margin. The paper-book [including annexures and other papers mentioned in sub-rule (i) above] shall be properly indexed and neatly bound with pages numbered consecutively. Where different parties file papers forming part of the paper-book at different stages or times, each party shall take care to number the pages of the part of the paper-book filed by it in continuation of the paper-book already filed or compiled. Court-fee stamps if any, shall be neatly affixed so as to cover any portion of typewritten, cyclostyled or printed matter or in the margin.

**(iii) Copies of documents to be filed after rule nisi to be supplied to other parties before filing.** — Any party wishing to file after the issue of rule any document intending it to be part of the paper-book, shall do so after serving a copy or copies thereof on the opposite party or parties, and if the party wishing to file the documents be the opponent, upon other opponents also, and shall file written acknowledgment or acknowledgments of having so served such copy or copies. Two copies (or more, if required) shall be filed for the use of the Court.

**(iv) Manner of computing costs of paper-books.** — A party to whom costs are awarded shall be entitled to the costs of the paper- book which shall be calculated at the following rates :—

(a) For translations the rate shall be 75 paise per folio of 100 words, exclusive of the cost of typing, cyclostyling or printing,

(b) For typewritten matter the rate shall be 60 paise per page for the first copy and 30 paise per page for every additional copy, the page consisting of running matter of not less than 250 words.

(c) For cyclostyled matter the rate shall be R-s. 5 per page of running matter consisting of not less than 250 words, irrespective of the number of copies.

(d) For printed matter the rate shall be Rs.8 per page of running matter consisting of not less than 40 lines, irrespective of the number of copies.

(e) For tabular matter the rate shall be one and half times the rate prescribed respectively at (b), (c) and (d) per page, accordingly as the matter is typewritten, cyclostyled or printed. The minimum regarding the contents of page shall not apply.

(f) Fractions of above units which are less than half shall not be counted and fractions of the same which are equal to half or more than half shall be counted as one.

(g) Cases for which there are no clear or sufficient provisions shall be decided by the Taxing Officer in his discretion having regard to the general principles underlying the above provisions.

**11. Answer to rule nisi,** — An answer to rule nisi showing cause against such application shall be made by filing at least two days before the returnable date of the rule an affidavit in the office of the Registrar, a copy whereof shall be served upon the applicant.

**12. Service of rule nisi on other parties.** — The Court may in its discretion at any time before a final order is made on the application, order rule nisi to be served on any party likely to be affected by any order which the Court may make in the matter. The provisions contained in the foregoing rules relating to service of the notice of rule and filing of the affidavit in reply shall apply to such a case.

**13. Further affidavit not allowed.** — No further affidavit or affidavits shall be filed by any party except with the leave of the Court.

**14. Oral testimony.** — If cause be shown or answer made upon affidavit putting in issue any material question of fact, the Court may allow oral testimony of witnesses to be taken and for that purpose may adjourn the hearing of the rule to some other date. In such a case either party may obtain summonses to witnesses, and the procedure in all other respects shall be similar to that followed in a suit.

**15. Procedure in case of difference of opinion between Judges.** — In case of difference of opinion between the judges composing the Division Court, the point of difference shall be decided in accordance with the procedure laid down in section 98 of the Code of Civil Procedure, 1908.

After the third Judge has given his opinion, the petition shall be placed before the Division Bench which had originally heard the petition and it shall pronounce the final judgment or order disposing of the matter:

<sup>9</sup>[Provided that where one of the Judges constituting such Division Bench has ceased to be a Judge of the High Court or has for the time being ceased to sit at Bombay, Nagpur, Aurangabad or Goa, as the case be (the Division Bench whereof originally heard the matter), the matter shall be placed before the Division Bench of which the other Judge is a member :

Provided further that where both the Judges have ceased to be the Judges of the High Court or have ceased to sit at Bombay, Nagpur, Aurangabad or Goa, as the case be, the Division Bench whereof originally heard the matter shall be placed before a Division Bench dealing with the class of cases to which the referred matter belongs.]

And the Division Bench referred to in the provisos shall pronounce the Final judgment or order disposing of the matter.

**16. Costs.** — The costs of all applications and orders made under this Chapter shall be in the discretion of the Court.

<sup>10</sup>**17. (i) Applications under Article 227 and 228.** — An application invoking the jurisdiction of the High Court under Article 227 of the Constitution or under Article 228 of the Constitution, shall be filed on the Appellate Side of the High Court and be heard and disposed of by a Division Bench to be appointed by the Chief Justice. The application shall set out therein the relief sought and the grounds on which it is sought. It shall be solemnly affirmed or supported by an affidavit. In every such

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<sup>9</sup> Substituted by Notification No.3604/87, Dt. 24-9-1987.

<sup>10</sup> Substituted by Notification No.3604/87, Dt. 24-9-1987.

application, the applicant shall state whether he has made any other application to the Supreme Court or the High Court in respect of the same matter and how that application is disposed of.

**(ii) Applicant to inform Court, if, during pendency of an application, the Supreme Court is approached.** — If the applicant makes an application to the Supreme Court in respect of the same matter during the pendency of the application in the High Court, he shall forthwith bring this fact to the notice of the High Court by filing an affidavit in the case and shall furnish a copy of such affidavit to the other side.

**(iii) Hearing may be adjourned pending decision by the Supreme Court.** — The Court may adjourn the hearing of the application made to it pending the decision of the Supreme Court in the matter.

**(iv) Rules 2 to 16 to apply mutatis mutandis.** — Provisions of Rules 2 to 16 above shall apply mutatis mutandis to all such applications.

<sup>11</sup>**[18. Single Judge's powers to finally dispose of applications under Article 226 or 227.**— Notwithstanding anything contained in Rules 1,4 and 17 of this Chapter, applications under Article 226 or under Article 227 of the Constitution (or applications styled as applications under Article 227 of the Constitution read with Article 226 of the Constitution) arising out of—

(1) The orders passed by the Maharashtra Revenue Tribunal under any enactment,

(2) The orders passed by any Authority or Tribunal (other than the Maharashtra Revenue Tribunal) under the Bombay Tenancy and Agricultural Lands Act, 1948. or the Bombay Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Act, 1958, the Hyderabad Tenancy and Agricultural Lands Act. 1950 or Maharashtra Agricultural Lands (Ceiling on Holdings) Act, 1961.

(3) The decrees or the orders passed by any Subordinate Court or by any quasi Judicial Authority in any suit or proceeding (including suits and proceedings under any Special or Local Laws), but excluding those arising out of the Parsi Chief Matrimonial Court and orders passed under the Recovery of Debts Due to Banks and Financial Institutions Act, 1993; the Administrative Tribunals Act, 1985; the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes, (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000;]

(4) The orders and decisions of the Courts constituted under the Code of Criminal Procedure, except the applications for quashing an F.I.R., C.R. Charge Sheet or an order directing investigation under Section 156(3) of the Cr.P.C. irrespective of

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<sup>11</sup> Subs. by Notification No. P3601/2013, dt. 27-08-2013, M.G.G.- IV-C, dt. 28-08-2013

whether such applications have been filed under Section 482 simpliciter or read with Article 226 and/or Article 227 of the Constitution.

(5) The decrees or the orders passed by any Subordinate Court in appellate or revisional proceedings arising from suits or proceedings mentioned in Clause (3) above, or

(6) The orders passed by any authority under the Bombay Rents, Hotel and Lodging House Rates (Control) Act, 1947 or the Central Provinces and Berar Letting of Houses and Rent Control Order, 1948 or the Hyderabad House (Rent, Eviction and Lease) Control Act, 1954;

(7) The orders passed under the Maharashtra Housing and Areas Development Act, 1976 and under the enactments repealed by the said Act;

(8) The orders passed by the Tribunal constituted under the Nagpur Improvement Trust Act, 1936;

(9) The orders passed under the Maharashtra Slum Areas (Improvements, Clearance and Re-Development) Act, 1971;

(10) The orders passed under the Industrial Disputes Act, 1947;

(11) The orders made in applications under the Bombay Industrial Relations Act, 1947;

(12) The orders passed under the Maharashtra Restoration of Lands to Scheduled Tribes Act, 1974;

(13) The orders passed under the Maharashtra Co-operative Societies Act, 1961;

(14) The orders passed under Chapters VI and VII of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1972;

(15) The orders passed by the Appellate Authority under the Beedi and Cigar Workers (Conditions of Employment) Act, 1966;

(16) The orders passed under the Payment of Gratuity Act, 1972;

(17) The orders passed under the Workmen's Compensation Act, 1923;

(18) The orders passed under the Payment of Wages Act, 1936;

(19) The orders passed under the Minimum Wages Act, 1948;

(20) The orders passed under the Bombay Prohibition Act, 1949;

(21) The orders passed under the Maharashtra Land Revenue Code, 1966;

(22) The orders passed under the Bombay Stamp Act, 1958;

- (23) The orders passed under the Bombay Police Act, 1951;
- (24) The orders passed under the Bombay Shops and Establishments Act, 1948;
- (25) The orders passed under the Bombay Port Trust Act, 1879;
- (26) The orders passed under the Bombay City (Inami and Special Tenures) Abolition and Maharashtra Land Revenue Code (Amendment) Act, 1969;
- (27) The orders passed under Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970;
- (28) The orders passed under the Displaced Persons (Compensation and Rehabilitation) Act, 1954;
- (29) The orders passed under the Electricity (Supply) Act, 1948;
- (30) The orders passed under the Employees' Provident Funds and Misc. Provisions Act, 1952;
- (31) The orders passed under the Employees' State Insurance Act, 1948;
- (32) The orders passed under the Factories Act, 1948;
- (33) The orders passed under the Indian Railways Act, 1890;
- (34) The orders passed under Section 3 the Electricity Act, 2003;
- (35) The orders passed under the Motor Vehicles Act, 1939;
- (36) The orders passed under the Minimum Wages Act, 1948;
- (37) The orders passed under the Major Port Trust Act, 1963;
- (38) The orders passed under the Merchant Shipping Act, 1958;
- (39) The orders passed under the Wireless Telegraphy Act, 1933;
- (40) The orders passed under the Registration Act, 1908;
- [(41) The orders passed under the Maharashtra Universities Act, 1994;
- (42) The orders passed under the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977;]
- [43] Orders passed under Bombay Primary Education Act, 1947 (Bombay Act No. LXI of 1947);
- (44) Orders passed under the Land Acquisition Act, 1894 for acquiring land for re-settlement of the Project affected Persons in accordance with the provisions of Maharashtra Resettlement of Project Displaced Persons Act, 1976 (Mah. Act No. XLI

of 1976) or Maharashtra Project Affected Persons Rehabilitation Act, 1986 (Mah. Act No. XXXII of 1986);

(45) Orders passed under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971;

(46) Orders passed under Bombay Public Trusts Act, 1950,

may be heard and finally disposed of by a Single Judge appointed in this behalf by the Chief Justice:

Provided when the matter in dispute is or relates to the challenge to the validity of any statute or any rules or regulations made thereunder, such application shall be heard and disposed of by a Division Bench to be appointed by the Chief Justice:

Provided further that the Chief Justice may assign any petition or any category of petitions falling under Clauses 1 to 46 or any Clause that may be added hereinafter to, a Division Bench:

Provided also that all petitions/applications under Article 226 and/or 227 of the Constitution of India arising out of or relating to an order of penalty or confiscation or an order in the nature thereof or an order otherwise of a penal character and passed under any special statute shall be heard and decided by a Division Bench hearing Writ Petitions.

**Explanation** – The expression “order” appearing in clauses (1) to (46) means any order passed by any judicial or quasi judicial authority empowered to adjudicate under the abovementioned statutes.

**<sup>12</sup>18(A). Service of copy of petition and documents on Respondent when interim orders prayed for** – (1) Where the petitioner desires to obtain interim orders (whether by way of injunction or stay or in any other manner), he shall furnish a copy of such petition including all documents in support of the plea for such interim orders to the party against whom such petition is filed or proposed to be filed. Such copies shall be furnished one clear day before the day on which application for interim order is made. The petitioner shall also by a notice inform the party against whom such petition is filed or proposed to be filed, the date and time when he desires to apply for interim orders and file in Court, an affidavit of having served such a notice and having furnished copies of documents as stated above.

(2) The Court may, for sufficient reasons, dispense with the requirements of sub-rule (1) above.

(3) The provisions of Section 148-A of the Code of Civil Procedure, shall not be applicable to the Writ Petitions filed under Article 226 of the Constitution of India”.

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<sup>12</sup> Inserted vide Notification No. 3603/2021, dated: 12st May 2021, published in MGG 2021, Ext. Ord. Part 4-C, dated 19.05.2021

**19. Registrar's powers to pass certain orders.** — The Registrar shall have power to pass the following orders : —

- (a) Orders regarding deletion of the names of the parties or substitution of heirs when applications are in time.
- (b) Orders regarding requests for Record and Proceedings or for additional Record and Proceedings
- (c) Orders on notes of withdrawal of appearance
- (d) Orders on notes of translation.
- (e) Orders on reports regarding non-service of affidavits, notes, etc., on the other side
- (f) Orders on applications for appointment of guardian of a minor
- (g) Orders on applications for showing parties as major.

**20. Procedure for revising the Registrar's orders refusing registration and dismissing for failure to prosecute.** — Notwithstanding anything contained in Rule 7 of Chapter II an order of the Registrar refusing registration under Rule 3(iii) of this Chapter or dismissing a matter for failure to prosecute under any one of the provisions of this Chapter shall be revisable only upon a regular stamped application which shall be Filed within seven days from the date of the order of the Registrar complained of, provided that the Court may, for good cause shown, condone the delay in making the application. Such application shall, unless dispensed with by the Court, be supported by an affidavit explaining the circumstances under which the various steps could not be taken within the prescribed time.

#### **Execution of Orders**

**21. Drawing up of order including cost.** — Every order passed on Civil Applications under Article 226 of the Constitution including any order as to costs, shall be drawn up as if it were a decree and shall be executable as a decree in the manner provided in the Code of Civil Procedure.

**22. Applications under section 82, Civil Procedure Code.** — (i) Applications under section of the Code of Civil Procedure for making a report of non-satisfaction to the State Government of any order or decree passed in any Civil Application under Article 226 of the Constitution shall be supported by an affidavit of the applicant and shall be accompanied by a certified copy of the decree or order.

(ii) Applications under the above sub-rule shall be heard and disposed of by the Registrar.

(iii) If the Registrar is satisfied that the order or decree is not satisfied within the time specified therein and that the execution of the order or decree is not barred by any provision of law, he may make a report of non-satisfaction to the State Government.

**23. Execution of order or decree on Original Side.** — Any order or decree in a Civil Application under Article 226 of the Constitution passed on the Appellate Side and the non- satisfaction of which has been reported to the State Government under the preceding rule may be transmitted to the Original Side of this Court for execution and, if so transmitted, shall be executed in accordance with the procedure prescribed for execution of decrees and orders passed in the exercise of the Ordinary Original Civil jurisdiction of this Court.

<sup>13</sup>[Explanation — An order or decree in a Civil Application under Article 226 of the Constitution of India, decided at the Benches at Nagpur, Aurangabad and Panaji will be transmitted to the Court of competent civil jurisdiction for execution.]

**24. Application for transmission of order or Decree to Original Side or any other Court for execution.** — (i) Every application for transmitting the order or decree to the Original Side of this Court for execution or for transmitting the order or decree to any other Court for execution under section 39 of the Code of Civil Procedure shall be supported by an affidavit of the applicant and shall be accompanied by a certified copy of the order or decree.

(ii) Applications under the above sub-rule shall be heard and disposed of by the Registrar.

(iii) The Registrar, when transmitting the decree or order, shall send all the documents necessary to be sent under the provisions of Order XXI, Rule 6 of the Code of Civil Procedure and such other documents as he may deem necessary to the Court to which the decree or order aforesaid is transmitted for execution. Such documents, except when the transmission is to the Original Side of this Court, may be sent directly by Registered Post to the Court concerned.

**25. Notice under Order XXI, rule 22, Civil Procedure Code.** — (i) Where the provisions of Order XXI, rule 22 are applicable, notice thereunder shall be issued by the Court to which the said decree or order is transmitted under the preceding rule.

(ii) Such Court shall determine all matters arising out of or in relation to the execution of the said decree or order transmitted for execution.

**26. Reference to Court for orders in case of doubt.** — In case of doubt or difficulty in regard to any application under rules 21 to 25, the Registrar may refer such application to the Court for orders.

**27. Execution of orders under Article 227.** — An order made by the High Court under Article 227 of the Constitution shall be executable in the same manner in which the order made by the Court or Tribunal, against which the application under Article 227 has been made, could have been executed under the law.

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<sup>13</sup> Added vide Notification Dt. 17/18-1-2001, published in M.G.G., Dt. 1-2-2001, Pt. 4-C., pg. 14.

**28.** Rules applicable to Civil Appeals and Applications, shall except otherwise provided in this Chapter apply mutatis mutandis, to Writ Petitions.

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