

**THE AHMEDABAD SMALL CAUSE COURT
RULES, 1961**

(Amended as on 20.04.2024)

In exercise of the powers conferred by section 9 of the Presidency Small Cause Courts Act, 1882 (Act No. XV of 1882), the Honorable the Chief Justice and Judges of the High Court of Gujarat at Ahmedabad are pleased to prescribe the following Rules regarding the procedure to be followed and the practice to be observed by the Ahmedabad Small Cause Court:-

PART I

DEFINITIONS AND INTERPRETATIONS

- 1.** (1) These rules may be cited as the Ahmedabad Small Cause Court Rules and shall come into force on the 4th day of November, 1961.
(2) The portions of the Code of Civil Procedure, Act V of 1908, as modified upto 4th November, 1961 in its applications to the State of Gujarat specified in the last column of the schedule hereto annexed shall, subject to the additions, alterations and modifications specified in the 2nd column of such schedule, extend and shall be applied to the Small Cause Court and the procedure prescribed thereby shall be the procedure followed in the Court in all suits cognizable by it except where such procedure is inconsistent with the procedure prescribed by any specific provisions of the Presidency Small Cause Courts Act, 1882, or with these rules.
- 2.** In these rules unless the context otherwise indicates:
 - (a) "Advocate" shall include a Pleader authorised to practice in the City of Ahmedabad.
 - (b) "Act" means the Presidency Small Cause Courts Act No. XV of 1882.
 - (c) "Code" means the Code of Civil Procedure, 1908.
 - (d) "Court" means the Court of Small Causes at Ahmedabad and includes a Judge and, when he is empowered to exercise the powers of a Judge, the Registrar of the Court.
 - (e) "Registered Address" means the place appointed by the party or his advocate at which service of summons, notice or other process may be made on such party.
- 3.** In all cases in which any particular number of days not expressed to be clear days is prescribed by these rules, the same shall be reckoned

exclusively of the first day and inclusively of the last day and unless the last day shall fall on a Sunday or other day on which the office is closed, in which case the time shall be reckoned exclusively of that day also and of any other following day or days during which the office may continue to be closed.

PART II

(1) EXERCISE OF JURISDICTION

- 4.** The Judges may sit apart or together at any time and any one or more of the Judges so sitting apart shall have all the judicial authority which is given to the Court by the Presidency Small Cause Courts Act, 1882, or any other enactments for the time being in force, except in cases in which by such Act or other enactment or any rule or order having the force of law such powers are exercisable only by the Chief Judge.
- 5.** The Chief Judge may direct that any application, petition or suit shall be heard by a Bench consisting of two or more Judges of the Court.
- 6.** Applications under section 38 of the Act shall be heard by a Bench constituted by the Chief Judge or, in his absence, by the next available Judge in rank and precedence and consisting of at least two Judges.

(2) POWERS OF REGISTRAR AND DEPUTY REGISTRAR

- 7.** The Registrar and the Deputy Registrar are empowered to administer oath for the purpose of affidavits and verifications.
- 8.** Subject to the orders of the Chief Judge and in addition to any powers conferred on him by or under the Act, the Registrar shall have power to hear and dispose of :-
 - (a) Undefended suits, except suits where a defendant is a minor or a person of unsound mind;
 - (b) Applications of leave to sue in forma pauperis;
 - (c) Applications for issue of Distress Warrants;
 - (d) Applications for commissions to take evidence;
 - (e) Other inter-locutory applications in matters and suits and proceedings before such suits and proceedings are posted for hearing, except applications for arrest or attachment before judgment or

injunction, stay or commissions or for the appointment of receivers.

(f) Applications for payment of money out of Court.

(g) Applications under Sec. 74 of the Act;

(h) Applications for substituted service of summonses sent to the Court for service by mofussil Courts.

9. The following acts and matters shall be deemed to be non-judicial or quasi-judicial acts within the meaning of Sec. 33 of the Act:

(a) Admission of complaints and applications.

(b) Issue of summonses and notices to the address stated in the plaint or any other address and fixing the returnable dates thereof.

(c) Transmission of summonses and notices to another Court for service.

(d) Issuing summonses or subpoenas to witnesses.

(e) Issuing process in an application for execution where the only relief claimed is for attachment of movable in the possession of the judgment debtor.

(f) Issuing commissions for the examination of witnesses.

(g) Distributing suits and proceedings for disposal by the different Benches in accordance with the general or special directions of the Chief Judge.

(h) Granting adjournments in suits and proceedings on consent precipes except in suit or proceedings already posted for hearing before a Bench or a Judge.

(i) Ordering issue of copies certified or uncertified.

(j) Appointing Guardians-ad-litem for minor or lunatic defendants or respondents.

(k) Passing orders in respect of inspection of documents or records.

(l) Ordering the sale of attached properties.

(m) Authenticating Powers of Attorneys.

(n) Orders of payment of money out of Court.

(o) All acts and matters not involving the exercise of the discretion of the Court or hearing of parties or evidence or decision of objections.

10. The Chief Judge may by general or special order direct the distribution of

powers and duties between the Registrar and the Deputy Registrar and other officers of the Court.

- 11.** In the temporary absence of the Registrar the Deputy Registrar may, subject to the orders of the Chief Judge, perform the duties of the Registrar.
- 12.** The Registrar may place any matter which he is competent to decide by or under the Act and rules before a Judge if, having regard to the circumstances of the case, he is of opinion that it would be just and proper to do so.

PART III

(1) INSTITUTION OF SUITS AND PROCEEDINGS

- 13.** All complaints, statements of defence, affidavits, applications and other proceedings presented to the Court shall be in English or in Gujarati language and shall be written or type-written or printed fairly and legibly on substantial white foolscap folio paper with an outer margin of 2" and an inner margin of about 1" wide and separate sheets shall be stitched together bookwise. The writing shall be on both sides of the paper and numbers shall be expressed in figures.
- 14.** A suit or application shall be instituted by the presentation of a complaint or memorandum of the application, as the case may be, to an officer appointed by the Registrar in that behalf.
- 15.** Every suit or application shall be presented with a docket which shall contain the title of the suit or application, the names and addresses of the plaintiff or applicants and if presented through an Advocate, the addresses of the Advocate presenting it, the amount of court-fee paid on the complaint or the application, the date of presentation and such other particulars as may be prescribed by the rules. The addresses of the parties stated on the docket shall be regarded as the registered addresses of the parties.
- 16.** (1) The person receiving the complaint or application shall verify the date of presentation and the statements in the docket as to the amount of court-fee paid and shall countersign the same in token of their correctness. As soon as the complaint or application is presented it shall be entered in the Lodging Register on the date of the presentation and the complaint or application shall be marked with the serial number in

the Lodging Register for purpose of identification.

- (2) When a plaint or application is presented, the office shall examine it in order to see whether all the requirements of the rules or the law have been complied with and in particular whether the proper court-fee stamp has been paid.
 - (3) If the plaint or application does not conform with the requirement of rules or the law, the party concerned or his Advocate shall be informed to complete the requirements, and if he does not remove the office objections within 14 days, the plaint or application shall be placed before the Registrar for orders.
 - (4) The Registrar may grant time not exceeding one month in expedited causes and two months in other cause for the removal of the office objections and if the office objections are not removed within that time, the plaint or application shall be placed before the Court for such orders as the Court may deem fit.
 - (5) The Court may excuse the delay in removing the office objections or grant such further time as it may deem fit on such terms and conditions as it may deem proper.
- 17.** (1) When the party or his advocate does not agree with the office as to the amount of court-fee payable on the plaint or application, the question of proper court-fee shall be decided by the Registrar. If the decision of the Registrar is not accepted by the party or his Advocate the plaint or application shall be placed before the Chief Judge or such Judge as he may nominate for assessment of the court-fee payable.
- (2) The deficit court-fee required to be paid according to the decision of the Registrar, Chief Judge or the Judge, as the case may be, shall be paid within such time as may be fixed by the Registrar or the Chief Judge or the Judge nominated by the Chief Judge, failing which the matter shall be placed before the Court for orders regarding rejection of the plaint or application.
- 18.** When all the office objections have been removed and the deficit court-fee is paid, the plaint or application shall be admitted and on admission shall be entered in the Register of suits or applications. The suit or application shall be numbered in accordance with the serial number of the entry in the Register and an endorsement thereof shall be made on

the plaint or the application.

- 19.** When a plaint or application is admitted, the words “admitted this day” with the date on which it is admitted shall be endorsed thereon and signed or initialed by the Registrar.
- 20.** The plaintiff or the applicant shall, within 7 days from the date of the admission of the plaint or substantive application, present as many copies thereof as there are defendants or respondents in addition to the copies and list of document referred to in rule 14 of Order VII of the Code.
- 21.** The Superintendent or such other person authorised by the Registrar, shall forthwith mark and initial any original document, account or entry produced under Order VII, rule 14 and after examining and comparing a copy thereof with the original, shall, if it is found correct, rectify it to be so and return the original document, account or entry, as the case may be, to the plaintiff or applicant after marking it for identification and cause, the copy to be filed with the record of the suit or application.
- 22.** The plaint or application shall, in addition to the prescribed court-fee bear the process fee for the issue of summons or notice to the defendants or respondents. Any such process fee, if it is not utilised, shall be refunded to the party who has paid the same.
- 22 A.** A plaintiff in a suit and an applicant in an application for ejectment may add, as party defendants or respondents, as the case may be, all persons in actual possession of the whole or part of the premises involved in the suit or the application.
- 23.** At any time before the final disposal of the suit or application, the Court may, upon an application filed in that behalf, allow alteration or amendment of any plaint or statement of defence or application upon such terms as to the adjournment, the taking of additional evidence, the payment of costs or otherwise as may to the court seem fit.
- 24.** (1) All writs of summons or notices (Form 1) of substantive application shall be for final disposal and shall specify the dates fixed for hearing and except in suits triable under the summary procedure prescribed in Order XXXVII of the Code, specify also an intermediate date two weeks before the date fixed for hearing for the filing of the statement of defence if the defendant or respondent desires to defend the suit or application.

(2) The days for hearing and for filing the statement of the defence shall be determined by the Registrar so as to allow such time as he thinks sufficient to prepare the defence and to appear in obedience to the summons having regard to the place of residence of the Defendant or Respondent and other circumstances of the case.

(2) APPEARANCE OF DEFENDANT AND STATEMENT OF DEFENCE

- 25.** The memorandum of the registered address of the defendant or respondent and, if he is represented by an Advocate, of his Advocate, shall be filed on the first date of his appearance in Court.
- 26.** A defendant or a respondent shall file his statement of defence on or before the date specified in the writ of summons or the notice and shall furnish to the office a copy thereof for being delivered to the plaintiff or applicant on his applying therefor. The Registrar may excuse delay or grant time to the defendant or respondent to file the statement of defence not exceeding 15 days in the case of expedited matters and 30 days in other matters.
- 27.** The rules relating to plaint and applications shall as far as may be, apply mutatis mutandis to statements of defence and set off.
- 28.** A defendant or respondent filing his statement of defence shall annex thereto a list of documents on which he proposes to rely.
- 29.** All suits and applications in which statements of defence are not filed within the time prescribed by rule 26 above shall be placed before the Court or the Registrar, as the case may be, for disposal as undefended matters and thereupon the Court or the Registrar shall pass such orders as the Court or the Registrar considers fit in the circumstances of the case.
- 30.** Except when otherwise ordered by the Court, no party shall be allowed to rely upon any document, unless such document has been produced and a copy thereof filed or unless the document has been included in the list as prescribed under Order VII, Rule 14, or under Rule 28 above and unless inspection therefor has been offered to the opposite party at least 15 days before the hearing of the matter.
- 31.** (i) Unless otherwise ordered by the Court or unless otherwise prescribed in these rules, all writs of Summonses, witness Summonses and other process of the Court shall be served by the

Court Bailiffs.

- (ii) Notwithstanding anything contained in Sub-Rule (i) above, witness Summons to be served within the local limits of the jurisdiction of the Court, may be taken out for service by an Advocate.
 - (iii) When service is effected under Sub-Rule (ii) above, the Advocate shall cause to be filed, with the return of the Summons, the affidavit of service of the person effecting the service.
- 32.** Every process sent by any other Court for service by the Small Causes Court at Ahmedabad and not in the English or Gujarati language, shall be accompanied by an English Translation and also, when not in the language of the person on whom it is to be served, by a translation in such language, if possible.

(3) PAYMENT AND SCALE OF EXPENSES TO WITNESS

- 33.** Every person summoned to give evidence at the Court shall have tendered to him with the summons, a reasonable sum for his travelling expenses, if any, for coming to Ahmedabad and for the first day's attendance at the rates prescribed in paragraphs 63 to 66 of the Civil Manual. Such witness in Class I or Class II mentioned in paragraph 63 of Chapter VII of the Civil Manual shall, in addition, be entitled to conveyance charges to and from his residence each day if his residence is at a distance exceeding one mile from the Court-house and if not provided with a conveyance by the party requiring his evidence and if coming for the purpose of attending the Court only. Similarly, each witness of Class III or Class IV shall under similar circumstances be entitled to bus fare to and from the Court house to his residence.

(4) INTERLOCUTORY ORDERS

- 34.** The Court may, on the application of any party to the suit, order the sale by an officer of the Court or any person named in such order and in such manner and on such terms as it thinks fit, of any movable property which is the subject matter of such suit or attached before judgment in such suit, which is subject to speedy and natural decay or for any other just and sufficient cause the Court considers desirable to have sold at once.

- 35.** (1) The Court may, on the application of any party to the suit and on such terms as it thinks fit-
- (a) make an order for the detention, preservation or inspection of any property which is the subject matter of such suit or as to which any question may arise therein;
 - (b) for all or any of the purposes aforesaid authorise any person to enter upon or into any land or building in the possession of any other party to such suit; and
 - (c) for all or any of the purposes aforesaid, authorise any samples to be taken or any observation to be made or test to be made which may seem necessary or expedient for the purpose of obtaining full information or evidence.
- (2) The provisions as to the execution of process shall apply mutatis mutandis to the persons authorised to enter under this rule.
- 36.** (1) An application by the plaintiff for an order under Rule 34 or 35 may be made after notice to the defendant, at any time after the institution of the suit.
- (2) An application by the defendant for a similar order may be made after notice to the plaintiff at any time after appearance.
- 37.** Where the subject matter of a suit is money or some other thing capable of delivery and any party thereto admits that he holds such money or other thing as a trustee for another party, or that it belongs or is due to another party, the Court may order the same to be deposited in Court or delivered to such last named party, with or without security, subject to the further directions of the Court.

(5) RECORDING EVIDENCE OF WITNESSES

- 38.** (1) In cases to which Sec. 38 of the Act applies or in which an appeal is allowed on facts under any enactment for the time being in force, the Judge, as the examination of each witness proceeds, shall either (i) make in his own hand or cause to be made at his dictation a Memorandum of the substance of what the witness deposes, or (ii) cause the evidence of the witness to be taken down in writing in his presence and under his personal superintendence as far as possible not in the form of question and answer, but in the narrative form and the Judge shall, if necessary, correct the same.
- (2) Such memorandum or evidence taken down in writing shall be

signed by the Judge and shall form part of the record.

(6) SUMMARY PROCEDURE

- 39.** (1) In a suit filed under Order XXXVII of the Code of Civil Procedure, if the defendant enters an appearance or files a Vakalatnama, the plaintiff shall, on affidavit made by himself, or by any other person who can swear to the facts of his own personal knowledge verifying the cause of action, and the amount claimed, and stating that in his belief there is no defence to the action, apply by summons for judgment returnable not less than ten clear days from the date of service to the court for the amount claimed, together with interest (if any) and costs. The Judge may, thereupon, unless the defendant by affidavit or declaration shall satisfy him that he has a good defence to the action on the merits, or discloses such facts as may be deemed sufficient to entitle him to defend, pass a decree for the plaintiff accordingly.
- (2) On the summons for judgment all such directions may be given and orders made for the conduct of the suit as may appear necessary to the Court hearing the same.
- (3) If the defendant does not enter an appearance or file a vakalatnama within ten days of the service upon him of the writ of summons and the plaint and exhibits thereto, the plaintiff shall be at liberty to apply to put the suit down for hearing forthwith thereafter before the Court.
- (4) If the plaintiff does not apply for a decree within one year after the filing of the plaint, the suit shall be set down in the daily cause board dismissal before the Court, one week before the day fixed for such dismissal. Upon the day fixed for such dismissal, the suit shall be called on before the Court and shall be dismissed if the plaintiff fails to appear, or appearing fails to satisfy the Court that he has sufficient cause for not having proceeded with his suit.
- 40.** If on the summons for Judgment it appears that the defence set up by the defendant applies only to a part of the plaintiff's claim, or that any part of his claim is admitted, the plaintiff shall have judgment forthwith for such part of his claim as the defence does not apply to or as is admitted, subject to such terms, if any, as to suspending execution, or

otherwise as the Judge may think fit.

- 41.** If it appears to the Judge that any defendant has a good defence to or ought to be permitted to defend the action, and that any other defendant has not such defence and ought not to be permitted to defend, the former may be permitted to defend, and the plaintiff shall be entitled to enter final judgment against the latter, and may issue execution upon such judgment without prejudice to his right to proceed with his action against the former.
- 42.** A summons for judgment shall be in Form No. 3 of the Forms annexed to these Rules.
- 43.** If the defendant does not complete his security (if any) or carry out such other directions as the Court may have given within the time limited in the order, the plaintiff shall be at liberty to apply to put the suit down for hearing forthwith before the Judge as if no such order had been made.
- 44.** Summary suits in which leave to defend is granted shall, as far as possible, be set down for hearing before the Judge appointed from time to time by the Chief Judge for that purpose, on the day fixed for hearing thereof unless they have been transferred to the Long Cause List.

PART IV

(1) APPLICATIONS (GENERAL)

- 45.** Applications which are not required to be in writing by any law for the time being in force, may be made orally or in writing as directed by the Court:
Provided that the Chief Judge may by general order direct that any class or classes of applications shall be in writing.
- 46.** Every written application shall state the rule or section of the Act under which it is made and the relief or order sought and shall be signed by the applicant or his Advocate.
- 47.** All applications which are required to be stamped or in which notice may be required to be issued shall contain a statement of the value of its subject matter.
- 48.** Every application shall, unless otherwise prescribed, be supported by an affidavit;

Provided that the Chief Judge may by general order direct that any class or classes of applications need not be supported by an affidavit.

- 49.** The Court may order that notice shall be served on the opposite party when an application is filed and may direct the applicant to file as many copies of the application as there are persons to be served and may direct that such copies shall be served along with the notice:

Provided that nothing in this rule shall apply to an application presented in a suit or proceeding on the date of hearing a copy whereof has been served on the opposite party.

- 50.** The rules relating to the presentation, examination, admission, etc. of complaints shall apply mutatis mutandis to applications.
- 51.** The Chief Judge may, by general or special order, direct the Judge or Bench before whom any application or class of applications shall be placed.

(2) APPLICATIONS UNDER SECTION 18 OF THE ACT

- 52.** (1) An application under Section 18 of the Act for leave to institute a suit, shall be in writing, signed by the applicant and if he is represented by an Advocate, his Advocate. It shall be supported by an Affidavit of the applicant or of a person proved to the satisfaction of the Court to be acquainted with the facts of the case.
- (2) The application shall set forth precisely all the facts of the case, the particulars as to the place of the residence, work or business of the respondent and the grounds on which the petitioner invokes the jurisdiction of the Court.
- (3) The Court may order notice to the defendant before hearing such application.
- (4) When leave to sue is granted without notice it shall be open to the defendants with reference to whom it has been granted, to object to the exercise of jurisdiction by the Court.

(3) APPLICATION UNDER SECTION 38 OF THE ACT

- 53.** Every application under Section 38 of the Act for new trial shall state clearly the grounds upon which it is made and the applicant shall at the time of trial be restricted to the grounds so stated unless the court

otherwise permits.

- 54.** Where the application is presented by an Advocate, it shall contain a certificate to the effect that in his opinion there are good grounds for the application.
- 55.** The application shall be verified on solemn affirmation or oath by the applicant or a person proved to the satisfaction of the Court to be acquainted with the facts of the case, when it is alleged that new and important matter has been discovered after the trial. No verification shall be required in other cases. The application shall be signed by the applicant and if he is represented by an Advocate, by his Advocate.
- 56.** The Court may, after hearing the applicant or his Advocate, grant a rule nisi on such terms as to security or payment into court or otherwise as it thinks fit or may reject the application summarily.
- 57.** The Judge who passed the decree or order in respect of which an application for a new trial has been made, or the bench hearing the application may for sufficient cause stay execution of the decree or order on such terms as to security, payment into Court, or otherwise as may be considered fit and proper.
- 58.** When an application for new trial has been admitted and notice has been ordered to issue, the applicant shall within 7 days from the date of the order, furnish as many copies of his application for new trial as there are opposite parties, for service with the notice.

(4) APPLICATION UNDER SECTION 41 AND SECTION 61 OF THE ACT

- 59.** (1) An application under Section 41 or 61 of the Act shall be in writing in the form of a plaint and shall contain a statement of the value of the subject matter which, in the case of an application under Section 41, shall be the annual rental value of the property.
- (2) Every application under Section 41 of the Act shall contain a precise description of the property to which it relates, including the name of the street, survey number of the plot and the municipal number of the premises.

(5) SUITS BY POOR PERSONS

- 60.** An application under Section 74 of the Act for exemption from payment of Court-fees shall contain a statement of the property belonging to the applicant and the estimated value thereof and also of his income, if any, and it shall be signed by the applicant and supported by an affidavit. It shall be presented with the plaint in the suit desired to be instituted.
- 61.** (i) Notwithstanding anything contained in these rules, the application shall be presented in person to the Registrar or to any other person authorised by the Registrar, unless he is exempted from appearing in Court in which case, the application may be presented by an authorised agent who can answer all material questions relating to the application and who may be examined in the same manner as the party represented by him might have been examined had such party attended in person.
- (ii) Where the application is presented by an agent, the Court may, if it thinks fit, order that the applicant be examined on commission in the manner in which the examination of an absent witness may be taken.
- 62.** (i) Where the application is in proper form and duly presented, the Court may, if it thinks fit, examine the applicant, or his agent, as the case may be, regarding the merits of the claim and the property of the applicant.
- (ii) The Court may summarily dismiss an application after the examination under Sub-Rule (i).
- 63.** Where the application is granted, the plaint presented along with it shall, on payment of Court-fee, if any, directed to be paid thereon within such time as the Court may fix, and if no court-fee is directed to be paid, then forthwith, be dealt with as a plaint duly presented with the full court-fee.

(6) APPLICATION FOR ARREST OR ATTACHMENT BEFORE JUDGMENT

- 64.** An application for arrest before judgment, or attachment before judgment, shall be in writing, signed by the applicant and when he is represented by an Advocate, by his Advocate and shall be supported by an affidavit of the applicant.

(7) APPLICATION FOR DISTRESS WARRANT

- 65.** Every application for a distress warrant shall be in writing signed by the applicant and when he is represented by Advocate, by his advocate and shall be supported by an affidavit. It shall contain a precise description of the property including survey number of the plot and the municipal number of the premises where the tenant resides.

PART V – EXECUTION

- 66.** An application for execution of a decree or order in a suit or proceeding shall be in writing and duly verified in the manner prescribed for plaints. It shall contain the following particulars:
- (a) The number of the suit or proceeding.
 - (b) The name and address of the person against whom execution is sought.
 - (c) The amount due including costs and interest due on the date of the application for execution after giving credit for such payments or adjustments as may have been made.
 - (d) The mode in which the assistance of the Court is required, and
 - (e) The dates on which earlier applications for executing the decree were made, with the dates of their disposals.
- 67.** In suits in which no order has been made by the Judge passing the decree as to the manner or time of payment, execution shall not issue until expiration of 8 days from the date of the decree except by special order of a Judge.
- 68.** In all suits warrants for the execution of decree shall be made returnable within three months from the date of issue.
- 69.** No sale of any goods taken in execution under a warrant shall be made until the end of at least fifteen days next following the day on which such goods have been so taken, unless such goods be of a perishable nature, or upon the request, in writing, of the party whose goods have been taken.
- 70.** Live-stock and other movable property taken in execution under a warrant of attachment shall either be deposited, by the bailiff by whom they were taken, in custody of the appraiser of the Court, or be kept on the premises where they were taken, in charge of peons engaged by the

appraiser for that purpose.

- 71.** The Chief Judge may, from time to time, and for such time as he shall think proper, appoint such and so many persons for keeping possession, and so many of the bailiffs or other fit persons to be brokers or appraisers for the purpose of selling or valuing any live-stock or other movable property taken in execution, as shall appear to him to be necessary.
- 72.** No goods taken in execution shall be sold for the purpose of satisfying the warrant of execution except by one of the appraisers so appointed, and all such sales, when held at the Court House, shall take place on some fixed day of each week which the Court shall cause to be generally known. A notice of such sale shall be posted in the Court House at least two clear days prior to the date fixed for the sale.
- 73.** The costs to be levied for the sale and custody of goods shall be as follows :-
- (a) On the sale of live-stock or other movable property seven N.P. in the rupee on the first Rs. 500 of the proceeds of the goods sold, 5 N.P. in the rupee on the second Rs. 500 of such proceeds and 3 N.P. in the rupee on all such proceeds above Rs. 1,000, and if special peons have been kept in charge of the goods, a further sum not exceeding Rs. 1.50 N.P. per diem for each peon so kept.
 - (b) For the custody of live-stock or other movable property removed before sale,-
 - (i) three naye paise in the rupee on the appraised value of the movable property attached, other than livestock, which shall have been in the custody of the Court for more than one clear day, and if special peons have been kept in charge thereof, a further sum not exceeding one rupee and fifty naya paise per diem for each peon so kept.
 - (ii) Twelve naya paise per diem for each head of live stock, (other than sheep, goats, calves or birds for which the charge shall be five naya paise for each head), for such time as it has been in the custody of the Court, and, if special peons have been kept in charge thereof a further sum not exceeding one rupee-fifty naya paise per day for each peon so kept.

- (iii) Charge specified above shall be in addition to the charges for feeding the attached live-stock as prescribed in Rule 74 below.
 - (iv) If the live-stock or other movable property attached has been advertised for sale under Rule 67, Order XXI of the Code of Civil Procedure, the costs of such advertisement shall be an additional charge.
- 74.** (1) No application, oral or written for an order of attachment of live-stock or movable property shall be made or placed before the Court unless the person seeking such order has deposited in the first instance such sum as the court may direct in addition to a sum of Rs. 25 and other incidental expenses where it is desired to have the property removed to the Court and in the case of live-stock, unless he has deposited in addition a sufficient amount for the feeding of the live-stock for at least one week in accordance with the scale prescribed below.
- (2) Before making any order for the attachment of live-stock, or other movable property or at any time after any such order has been passed, the Court may require the person at whose instance the order of attachment is sought or has been made, to deposit in Court such further sum of money as the Court may consider necessary :-
- (a) for the removal of the property to Court premises and its maintenance, guarding and custody till arrival thereat;
 - (b) for the maintenance, guarding, and custody of the property at the Court premises till it is sold or otherwise disposed of;
 - (c) for the maintenance, guarding, and custody of the property at the place at which it was attached.
 - (d) in the case of live-stock, for the feeding of the live-stock until it is sold or otherwise disposed of. In case of failure to deposit such sum within the time prescribed by the Court, the Court may either refuse to issue or may cancel the order of attachment as the case may be.
- (3) The feeding charges for live-stock shall be levied at the following rates:

	Charges per head per day
Horses or ponies	Rs. 2.

Buffaloes	Rs. 1.	50 nP.
Cows	Re. 1.	
Calves		50 nP.
Asses, Goats, Sheep and pigs		35 nP.
Birds		12 nP.

- 75.** An account of the expenses actually incurred shall, on demand being made on or before the date of the sale, be furnished to the attaching creditor and to the person whose property was attached, and the amount which the court after hearing their objections to the account, if any, made within three days after furnishing the same, finds to be properly due, shall be deducted as a first charge from the proceeds of the sale of the property and paid to the attaching creditor together with any balance that there may be of the deposit.
- 76.** (1) If in consequence of the cancellation of the order of attachment, or for any other reason, the person whose property has been attached becomes entitled to receive back his live-stock or other property attached, it shall, unless the Court otherwise directs, be given to him forthwith. Payment of all charges found by the Court to have been properly incurred which have not been defrayed shall, unless otherwise ordered by the Court, be recovered from the deposit made under Rule 74 and if the deposit is found insufficient to meet the said charges, the excess amount shall be recovered from the person at whose instance the order of attachment was passed and shall be a first charge on any amount recovered or which may be recovered in further execution proceedings. The amount of such unpaid charges shall also be deemed to be an arrear of land revenue and may upon a certificate of non-satisfaction issued by the Court be recovered as such from such person in accordance with the procedure prescribed in the Land Revenue Code.
- (2) In case the Court orders that the said charges should be paid by the person who becomes entitled to receive back the goods or the live-stock under clause (1) above, the said goods or live-stock shall be delivered to him only on the payment of the said unpaid charges. In default of his paying the same within the time prescribed by the Court, the property or so much thereof as may be necessary, shall be sold by auction and after defraying the said charges and the expenses of the sale including advertisement thereof, the balance of the sale

proceeds of the property shall be delivered to him.

- 77.** (1) Where a judgment-debtor, upon being arrested, is committed to prison by order of the Court or the Registrar, the judgment-creditor or some person on his behalf shall accompany the bailiff to the prison and shall pay to the officer in charge of the prison so much subsistence allowance as will suffice till the end of the current month, calculated in accordance with the prescribed rates.
- (2) Subsequent payments of the subsistence allowance shall be made by the judgment-creditor to the officer in charge of the prison by monthly payments in advance before the first day of each calendar month.
- (3) In case where it is not possible to bring the judgment-debtor under arrest before the Court or the Registrar forthwith, the judgment-creditor or some person on his behalf shall accompany the bailiff to the prison and shall pay to the Officer in charge thereof so much subsistence allowance as will suffice to lodge the judgment-debtor in jail until the first available day on which he can be brought before the Court, and the said officer shall thereupon retain the judgment-debtor in his custody until such day.
- (4) If the judgment-creditor or some person as aforesaid fails to accompany the bailiff to prison or to pay the amount of subsistence allowance as required, the bailiff shall sign an endorsement to that effect upon the warrant and shall forthwith release the judgment-debtor.
- (5) Sums disbursed by the decree-holder for the subsistence of the judgment-debtor in the Civil Prison shall be deemed to be costs in the suit:
Provided that the judgment-debtor shall not be detained in the Civil Prison or arrested on account of any sum so disbursed.
- 78.** The Chief Judge may apply the sums raised by the preceding rules towards the payment of the contingent charges and remuneration of brokers, appraisers, and special peons in such manner as may appear to him expedient.
- 79.** Every bailiff levying or receiving any money by virtue of any process issuing out of the Court shall, not later than the first day after the receipt thereof, on which the office is open, pay the same to the Registrar.

PART IV

APPEARANCE OF ADVOCATE

- 80.** An advocate enrolled in the High Court of Gujarat or a District Pleader authorised to practice in the City of Ahmedabad shall be entitled to appear, act and plead in the Court.
- 81.** Appearance of any Advocate or Pleader in any suit or proceeding shall be sufficient to entitle him to appear, act, and plead in an application under Section 38 of the Act in respect of the suit or proceeding in which he appears.
- 82.** An Advocate or Pleader shall continue to represent his client until he is permitted to withdraw by an order of the Court or the Registrar.
- 83.** No party who has engaged an Advocate /or Pleader shall be permitted to appear, act, or plead, or do anything in relation to any suit or proceeding in Court except through his Advocate or Pleader.
- 84.** When an Advocate or Pleader is prevented by sickness or engagement in another Court from appearing in any case in which he has been retained, he may appoint another Advocate or Pleader to appear on his behalf and the case shall be proceeded with unless the Court otherwise directs.
- 85.** Costs in respect of the expenses of employing an Advocate or Pleader, when allowed, shall be on the following scale:-
- | | |
|--|--|
| (a) In suits for sums exceeding Rs. 20 and not exceeding Rs. 100. | Not more than Rs. 10 on the conclusion of the suit. |
| (b) In suits for sums exceeding Rs. 100 and not exceeding Rs. 300. | Not more than Rs. 30 on the conclusion of the suit. |
| (c) In suits for sums exceeding Rs. 300 and not exceeding Rs. 500. | Not more than Rs. 45 on the conclusion of the suit. |
| (d) In suits for sums exceeding Rs. 500 and not exceeding Rs. 1,000. | Not more than Rs. 68 on the conclusion of the suit. |
| (e) In suits for sums exceeding Rs. 1,000 and not exceeding Rs. 2,000. | Not more than Rs. 45 per day of 5 hours of actual hearing or Rs. 85 if the case is disposed of on the first day. |

Note:-

- (1) The minimum costs in (a), (b), (c), (d) and (e) respectively shall be Rs.5; Rs.15; Rs.17; Rs.34; and Rs.45;
- (2) The same scale of costs shall apply to proceedings under Section 41 of the Presidency Small Cause Courts Act, 1882, the annual value of the property at a rack being taken to be the value of the subject matter of the proceedings.

86. A surcharge of 25 per cent. shall be allowed on the fees prescribed here in above in Rule 85.

87. Where the Court has passed no order in respect of the quantum of costs allowed in respect of the employment of an Advocate or Pleader, the minimum cost prescribed in Rules 85 and 86 above shall be taxed in the bill of costs.

PART VII

WORKING HOURS OF COURT AND OFFICE

¹[**88**²[The Courts (except on Sunday, Holidays and Second and Fourth Saturdays of each calendar month) will work from 10.45 a.m. to ³[5.00 p.m.]] with a recess from 2.00 p.m. to 2.45 p.m.:-

Provided that, with the previous consent of the High Court at the time of approving the list of holidays and vacations or at any other time, any Saturday can be made working for the Court.

The offices of the Court (except in vacations and on Sundays, Holidays and second and fourth Saturdays of each calendar month) will be open daily from 10.45 a.m. to 5.45 p.m. but no work, unless of an urgent nature, will be received after 3.45 p.m. The offices will remain closed on the second and fourth Saturdays of each calendar month and on the remaining Saturdays working hours shall be the same as prescribed above.

In vacations the offices will be open from 10.15 a.m. to 3.30 p.m. except on Saturdays, Sundays and holidays but no work, unless of an urgent

1. Amended vide High Court Notification No. C.2105/92(1) dated 27.11.1996 (Guj. Gov. Gaz. Vol. XXXVIII Pt. IV-C dated 02.01.1997, Pg. No. 2)
2. Substituted vide High Court Notification No. C.0212/61 dated 28.06.2011 (Guj. Gov. Gaz. Vol. LII Pt. IV-C dated 07.07.2011, Pg. No. 135)
3. Substituted vide High Court Notification No. C.0212/61 dated 20.04.2024 (Guj. Gov. Gaz. Vol. LXV Pt. IV-C dated 22.04.2024, Pg. No. 57-1)

nature, will be received after 1.00 p.m.]

- 89.** The Chief Judge may, with the previous permission of the High Court, alter the hours prescribed by Rule 88 above, but so as not to reduce the total number of working hours in the week.

PART VIII

MISCELLANEOUS

- 90.** The Registrar shall grant a receipt for all sums of money paid into Court by suitors and no money shall be paid out of the Court except on production of such receipt or by or under an order of the Court.
- 91.** No correspondence relating to any proceeding before the Court shall be entered into, but parties having business with the Registrar or at his office shall transact the same in person or by an accredited agent.
- 92.** (1) All articles brought to Court in attachment or otherwise in suit or proceeding and ordered to be released shall be taken delivery of and removed by the party entitled to the same within six months of the date of the order.
- (2) In default of delivery being taken within the time aforesaid, all saleable articles concerned shall be sold at the Court's public auction after reasonable notice to the parties concerned and after such advertisement, if any, as the Chief Judge may in his discretion direct; and all non-sealeable articles shall be disposed in the manner prescribed for destruction of papers or records.
- (3) The sale proceeds of such sale, after deduction of the costs of notice and advertisement, as well as costs of sale and other charges, if any, due in respect of the properties sold, shall be deposited in Court to the credit of the person entitled, to the goods:
- Provided that if the name of such person cannot be ascertained or the person entitled does not taken steps to recover the said amount for a period of two years, the sale proceeds shall be deposited to the credit of the State Government.

APPLICABILITY OF RULES AND INSTRUCTIONS

IN THE CIVIL MANUAL

- 93.** Rules and instructions in the Manual of Civil Circulars issued by the High Court shall, except in so far as they are inconsistent with these rules or the Act, apply in addition to these rules.

THE SCHEDULE

(See Rule 1(2))

Portion of the Civil Procedure Code extending to the Court

Additions, Alterations and Modifications

¹[Preliminary

Section 1 Omit. For existing Section 3, substitute the following “For the purposes of this Code, the Court of Small Causes at Ahmedabad shall be subordinate to the High Court.”. In Section 4(i) for the words “in this Code” substitute the words “under the provisions in this Code applied to the Court of Small Causes.” Section 4(2) Omits, Sections 5 to 7 (both inclusive) Omit.

Part I Suits in General

Section 9 Omit.

Sections 15 to 23 (both inclusive) Omit.

Section 25 Omit.

Section 35(2) Omit.

Section 350A, In sub-section (2), Substitute the words “five hundred” for the words “one thousand” and delete the words “or exceeding the limits of its pecuniary jurisdiction, whichever amount is less.”. Omit both the provisos.

Part II Execution

Section 44 Omit.

Section 44A Omit.

Section 54 Omit.

Section 58(1) (a) For the words “*of six months*” substitute “*not longer than six months and not less than 30 days*”; (b) For the words “*six weeks*” substitute “*30 days*”; in the first proviso omit the

1. Added vide High Court Notification No. C.0212/61, dated 04.04.1963 (Guj. Gov. Gaz. Pt. IV-C, dated 11.04.1963, Pg. No. 648)

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words “said” and *of six months or six weeks as the case may be*” and after the word “period” insert the words *“for which he is ordered to be detained.”*

Section 60 — Add the proviso after sub-section (1):

“Provided that nothing in this section shall be taken as conferring on the Court of Small Causes of Ahmedabad, any jurisdiction to attach and sell immovable property in execution of a decree.”

Section 60(2) - Omit.

Sections 65 to 67 (both inclusive) - Omit.

Section 73(1) In the proviso, omit (c).

Section 74 Omit the words “or that the purchaser of immovable property sold in execution of a decree” and the words twice occurring “or purchaser”.

Part III

Incidental Proceedings

Section 75(d) Omit.

Part IV

Suits in Particular Cases

Section 86 Omit.

Section 87 Omit the proviso.

Section 87B Omit the words “and of sub-section (1) and (3) of Section 86”.

Part V

Special Proceedings

Sections 91, 92, and 93 Omit.

Part VI

Supplemental Proceedings

Section 94(c) Omit.

Section 95(1) — Omit the words “or a temporary injunction granted”.

In (1) (a) and (2) Omit “comma” after the word “arrest” and insert the word “or” in its place and

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omit the words “or injunction.”

Part VII
Appeals

Sections 96 to 112 (both inclusive) omit.

Part VIII
Reference, Review and
Revision

Section 113 to 115 (both inclusive) omit.

Part IX
Special provisions relating
to High Courts for Part A
States and Part B States.

Section 116 to 120 (both inclusive) omit.

Part X
Rules

Section 121 to 131 (both inclusive) omit.

Part XI
Miscellaneous

Section 139, for clause (c) substitute the following:-

“(c) any officer of the Court whom the Chief Judge may appoint in this behalf”.

Section 140 omit.

Section 144, omit the words “of first instance”.

Section 150 omit.]

FIRST SCHEDULE

Order I
Parties to Suits.

Rule 13, for the words “where issues are settled, at or before such settlement” substitute the words “before any evidence is recorded”.

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Additions, Alterations and Modifications

Order II
Frame of Suit.

Rule 4 omit.

Rule 7, for the words “where issues are settled, at or before such settlement” substitute “before any evidence is recorded”.

Order III
Recognised Agents and
Pleaders.

Rule 2, clause (a) substitute the following:-

“persons holding powers of attorney, authorising them to make and do such appearances, applications and acts on behalf of such parties”.

Rule 4(3) omit the words “application for review of judgment” and for the words “any appeal from the decree or order in suit or any application relating to such appeal” substitute the words “an application under section 38 of the Presidency Small Cause Court Act, 1882”.

Rule 4(4) omit.

Rule 5 omit.

Order IV
Institutions of Suits.

Rule 1 omit.

Order V
Issue and Service of
Summons.

Rule 5, omit the first para, and the words “provided that” in the proviso.

Rule 8, omit the words “where” and “is for the final disposal of the suit, it”.

Rule 9(1), add the words “Provided that the summons may be sent by Registered Post directed to the defendant if the Court or Registrar so thinks fit”.

**Portion of the Civil
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Additions, Alterations and Modifications

Rule 9(2) omit.

Order VI
Pleading generally.

Rule 1, add the words “or points of defence” after the words “written statement”.

Order VII
Plaint

Rule 9 omit.

Rule 14(1), omit the words “The document or”.

Rule 17 and 18 omit.

Rule 19, add the words “application for summons” between the words “plaint” and “or”.

Rule 20, substitute the words “Court of Small Causes, Ahmedabad” for the words “District Court within which the suit or petition is filled”.

Rule 22, omit the words “which repayment shall.....fixed for.....hearing”.

Rule 23, omit.

Order VIII
Written Statement and
Set-off.

Rule 1, omit.

Rule 12, delete the figures “23”.

Order IX
Appearance of Parties
and consequence of
non-appearance.

Rule 2, after the word “summons” insert “or any renewed summons that may have been ordered to issue” and after the words “Court fee” insert “for such summons or renewed summons”.

Rule 15, omit.

Order X
Examination of Parties

Rules 1 and 3 omit.

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by the Court.

Order XII
Admissions.

Rules 1 to 5 and 7 omit.

Order XIII
Production, impounding
and Return of
Documents.

Rule 1 (2) omit.
Rules 2 and 3 omit.

Rule 4(1) (a), omit the words “and title” (b) omit
the whole; (d) for “the Judge” substitute “an
officer of the Court”.

Rule 5(3), between the words “examined” and
“compared” insert the word “and” and omit the
words “and certified in ... Order VII”.

Rule 6 omit.

Rule 8, omit the words “or in Rule 17 of Order
VII”.

Rule 10 (2) omit.

Order XIV
Settlement of Issues.

Rules 1, 2 and 4 omit.

Order XV
Disposal of Suit at the
first hearing.

Rules 3 and 4 omit.

Order XVI
Summoning and
attendance of witnesses

Rule 1B delete.

Order XVIII
Hearing of the Suit and
examination of

Rules 5 to 15 (both inclusive) omit.
Rule 16(1), after the word “take” insert “or direct

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Additions, Alterations and Modifications

Witnesses.

the Registrar to take”, (3) for the words “so taken” substitute “if taken by the Registrar” and omit the words “and the Judge shall ... sign it”.

Order XI
Affidavits

Order XX
Judgement and Decree

Rules 3, 4 and 5 omit.

Rule 6(1), omit the words “shall agree with the judgment; it” and “and particulars of the claim”; (2) omit the words “or out of what property”.

Rule 8, omit the words “or if the Court ... was sub-ordinate”.

Rule 9 omit.

Rule 11 (2), omit the words “and with the consent of the decree-holder”.

Rule 12 to 15 (both inclusive) omit.

Rule 18 omit.

Rule 19 (2) omit.

Order XXI
Execution of Decree
and Orders.

Rules 3, 8 and 9 omit.

Rule 4, add the word “or Ahmedabad” after the words “Calcutta, Madras,” wherever they occur.

Rules 13 and 14 omit.

Rule 17(1), for the figures “11 to 14” substitute “11 and 12”.

Rule 22(2), omit the words “for reasons to be recorded”.

Rule 25(2), for “shall” substitute “may” and omit the proviso.

Rule 31(2) and (3) omit.

Rule 32 to 36 (both inclusive) omit.

**Portion of the Civil
Procedure Code
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Additions, Alterations and Modifications

Order XXI

Execution of Decree
and Orders contd.

Rule 39 omit.

Rule 40(2) and (3), delete the words “custody of an officer of the Court” and substitute “civil prison”.

Rule 42 omit.

Rule 43(1) for the words “keep the property ... due custody thereof” substitute “forthwith deposit the property in the custody of the proper officer of the Court”.

Add the further proviso:- “provided also that if at the time of the seizure or thereafter any objection is made to the attachment, the attaching officer or the Court may receive from the objector the amount for which the attachment has been levied inclusive of all costs, charges and expenses resulting from the attachment and treat the same as paid under protest in substitution of the property seized, and may release the property attached after making or causing to be made an inventory thereof, if one has not already been made, and removing to or detaining in Court such documents, papers and other articles as the attaching creditor or the objector may reasonably require the officer to take charge of for the purpose of helping the Court in the investigation of the claim or objection of the objector as the Court may direct.”

Rules 44, 44-A and 45 omit.

Rule 46-A, substitute the following proviso in place of the one existing:- “provided that if the debt in respect of which the application aforesaid is made is in respect of a sum of money beyond the pecuniary jurisdiction of the Small Cause Court, Ahmedabad, that Court shall send the execution case to the Ahmedabad City Civil Court

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Order XXI

Execution of Decree
and Orders contd.

at Ahmedabad and thereupon the Ahmedabad City Civil Court at Ahmedabad will deal with it in the same manner as if the case had been originally instituted in that Court”.

Rule 46-H, substitute the following for rule 46-H:-
“An order made under Rules 46-B, 46-C or 46-D by the Ahmedabad City Civil Court in proceedings transferred under the proviso to Rule 46-A shall be appealable as a decree; and the provisions of Section 38 of the Presidency Small Cause Court Act shall apply to such an order if passed after contest by the Small Cause Court, Ahmedabad, as if the said order were a decree or order passed by that Court under the said Act in a contested suit”.

Rule 47, after the words “in movable property” insert “other than a share in partnership property”.

Rule 49 omit.

Rule 53 so far as it relates to decrees for movable property only.

Rule 54 omit.

Rule 55(c) omit the word “and in the case of immovable property ... last preceding rule.

Rule 58(1) insert the words “whether such property continues under the attachment or has been released and moneys substituted therefor under the provisions of Rule 43,” after the words “party to the suit”.

Rule 66(2), omit the words “after notice to the decree-holder and the judgment-debtor”; omit (2) (b); omit (3).

Rule 68, omit the words “of at least thirty days in

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Order XXI

Execution of Decree
and Orders contd.

the case of immovable property, and “and” in the case movable property and for the words “on which the copy ... the sale” substitute “of seizure”.

Rule 69(2) omit.

Rule 72-A omit.

Rule 74 and 75 omit.

Rule 82 to 96 (both inclusive) omit.

Renumber Rule 97(1) as Rule 97(1a), and omit the words “or the purchaser of any such property sold in execution of a decree”, and add the following:-

Rule 97 “(1b), the decree-holder may join as party respondents in such applications all the persons in possession or occupation at the time of such application is presented and may with the permission of the court, add any other persons as party respondents, who may be in possession or occupation after the application is presented”.

Renumber Sub-Rule (2) as Sub-Rule (2a) and add the following as Sub-Rule (2b):-

(2b) The summons may be served, if the Court so orders, by substituted service which may be effected, subject to the directions of the Court, by publication of the summons in a newspaper specified by the Court or by affixing it on a conspicuous part of the premises.

Add the following as Sub-Rule (3):-

(3) The applications under this rule may be disposed of by affidavit.

Rule 100(1), omit the words “or where such property has been sold in execution of a decree, by the purchaser thereof,”

Add the following Sub-Rule as Sub-Rule (3) of

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Rule 100:-

(3) The applications under this rule may be disposed of by affidavit”.

Order XXII
Death, Marriage and
Insolvency of parties.

Rule 11 Omit.

Order XXIII
Withdrawal and
adjustment of suits.

Order XXIV
Payment into Court.

Rule 4(1), omit the words “and, if the Court decides ... in the Plaintiffs, Claim”, (2) omit the words “he shall present ... be filed and” and “and in directing.....for the litigation”, omit the illustrations.

Order XXV
Security of Costs.

Order XXVI
Commissions

Rule 13 and 14 omit.

Rule 18, after Sub-Rule (2) add “(3) if either party against whom an order has been passed under Rule 15 to pay into court any sum for expenses fails to do so within the time fixed he shall be precluded from appearing before the Commissioner except with the special leave of the court”.

Order XXVII
Suits by or against the
Government or Police
Officers in their official

Rule 1 after the words “written statement” insert “if any”.

Rule 8-A omit.

**Portion of the Civil
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capacity.

Order XXVII-A

Suits involving a substantial question of law as to the interpretation of the constitution.

Order XXVIII

Suits by or against Military men or Airmen.

Order XXIX

Suits by or against Corporation.

Order XXX

Suits by or against firms and persons carrying on business in names other than their own.

Rule 9 omit.

Order XXXI

Suits by or against Trustees, Executors, and Administrators.

Order XXXII

Suits by or against minors and persons of unsound mind.

Rule 2 (1) after the word "plaint" add the words "or summons".

Rule 9 (2) omit the words "for reasons to be recorded by it".

Order XXXIII

**Portion of the Civil
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Suits by Paupers.

Rules 1 to 8 omit.

Rule 10 add the words “if the claim had been equal to the amount of the decree passed and” after the words “which would have been paid by plaintiff” and before the words “if he had not been permitted to sue as a pauper”.

Order XXXV
Interpreter.

Order XXXVI
Special Case.

Rule 1 (1) (b) between the words “some” and “property” insert the word “movable” and omit the words “movable or immovable”.

Order XXXVII
Summary Procedure.

Rule 1 omit.

Insert the following for Rule 2:-

Rule 2(1) All suits upon bills of exchange, hundis or promissory notes and all suits in which the plaintiff seeks only to recover a debt or a liquidated demand in money payable by the defendant with or without interest, arising on contract express or implied or an enactment where the sum sought to be recovered is a fixed sum of money or in the nature of debt other than a penalty, or on a guarantee, where the claim against the principal is in respect of a debt or a liquidated demand only may in case the plaintiff desires to proceed hereunder be instituted by presenting a plaint which shall be instituted as a “Summary Suit” and which shall contain an averment that the plaintiff is suing under the summary procedure under Order XXXVII of the

**Portion of the Civil
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Order XXXVII

Summary Procedure contd.

Code of Civil Procedure. (2) The writ of summons in a suit instituted under sub-rule (1) above shall be in form No. 2. The plaintiff shall together with the writ of summons serve on the defendant a copy of the plaint and exhibits thereto, and the defendant may at any time within ten days of such service enter an appearance. The defendant may enter an appearance either in person or by an advocate. In either case an address for service shall be given in the memorandum of appearance and, unless otherwise ordered, all summonses, notices, or other judicial process required to be served on the defendant shall be deemed to have duly served on him if left at his address for service. On the day of entering appearance, notice of the appearance shall be given to the plaintiff's Advocate (or if the plaintiff sues in person to the plaintiff himself) either by notice delivery at, or sent by prepaid letter directed to, the address of the plaintiff's Advocate or of the plaintiff, as the case may be. (3) In any suit under this Rule the defendant shall not defend the suit unless he enters an appearance and obtains leave from a judge as hereinafter provided so to defend; and in default of his entering an appearance and of his obtaining such leave to defend, the allegations in the plaint shall be deemed to be admitted and the plaintiff shall be entitled to a decree for any sum not exceeding the sum mentioned in the summons together with interest at the rates specified (if any) to the date of the decree, and such sum for costs as may be prescribed unless the plaintiff claims more than such fixed sum, in which case the costs shall be ascertained in the ordinary way and such decree may be executed

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forthwith:-

Order XXXVIII

Arrest and attachment
before judgment (except
as regards the
attachment of
immovable property).

Rule 3 omit.

Rule 4 in the first proviso for the words "six
weeks" substitute "thirty days".

Order XXXIX

Temporary Injunction &
Interlocutory orders.

Rule 1 to 5 (both inclusive) omit.
Rule 9 omit.

Order XL

Appointment of
Receivers (except as
regards immovable
property).

Rule 5 omit.

Order XLVI

Reference.

Rule 7 omit.

Order XLVII

Miscellaneous.

Order LIII

Applicability of rule 38
or Order XLI to
Proceedings under
section 115.

APPENDIX B

Forms 1, 2, 3, 5 and 6 omit. "The following shall
be inserted in red ink in forms Nos. 1, 2, 3, 5 and
6 of Appendix B of Schedule 1, also take notice
that in default of your filing an address for service
on or before the date mentioned you are liable to

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have your defence struck out”.

FORM NO.1

IN THE COURT OF SMALL CAUSES AT AHMEDABAD

Title.

Rule 24
Plaint filled
this day of
19 .

To

(Name, description and place of residence)

Whereas

You are required to file a statement of defence and serve a copy on the plaintiff two weeks before the date of hearing in default whereof the suit will be set down to be heard as undefended and you will be liable to have a decree or order passed against you.

has instituted a suit, a copy, a concise statement where of is herewith supplied, against you for

you are hereby summoned to appear in this court in person or by a pleader duly instructed, and able to answer all material questions relating to the suit, or who shall be accompanied by some person able to answer all such questions, on the day of 19 , at o'clock in the noon to answer the claim, and as the day fixed for your appearance is appointed for the final disposal of the suit, you must be prepared to produce on that day all the witnesses upon those evidence and all the documents upon which you intended to rely in support of your defence.

Take notice that, in default of your appearance on the day before mentioned , the suit will be heard and determined in your absence.

Given under my hand and the seal of the Court.

This day of 19 .

Judge,

Notice 1. Should you apprehend your witness will not attend of their own accord, you can have a summon from this court to compel the attendance of any witness and the production of any document that you have a right to call upon the witness to produce, on applying too the Court and on depositing the necessary expenses.

If you admit the claim, you should pay the money into court together with the costs of the suit, to avoid execution of the decree, which may be against your property or both.

IN THE COURT OF SMALL CAUSES AT AHMEDABAD

Versus

Whereas _____ has instituted a suit against you under order XXXVII of the code of Civil Procedure 1908, for Rs. _____ for _____ and interest, a copy of the plaint where-of is herewith supplied, (or as the case may be), you are hereby summoned to cause an appearance to be entered for you within ten days from the service hereof, in default, whereof the plaintiff will be entitled at any time after the expiration of such ten days to obtain a decree for any sum not exceeding the sum of Rs. _____. And such amount as the Court may award for costs, together with such interest if any as the Court may order.

If you cause an appearance to be entered for you, the plaintiff will thereafter serve upon you a summons for Judgment at the hearing of which you will be entitled to ask the Court for leave to defend the suit.

Leave to defend may be obtained if you satisfy the Court by affidavit or otherwise that there is a defence to the suit on the merits, or that it is reasonable that you should be allowed to defend suit.

This day of 19

Sealed.

The day of 19

for Registrar.

Plaintiff's Advocate.

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FORM NO.3

IN THE COURT OF SMALL CAUSES AT AHMEDABAD

Suit No. of 19

Plaintiff.

Versus

Defendant.

Upon reading the affidavit of (the plaintiff or as may

Rule No. 42. be).
Summons for
Judgement.

Let all parties concerned attend the Court

On day of 19 at o'clock
in the noon on the hearing of an application on the
part of the plaintiff that he be at liberty to sign judgement in
this suit against the defendant (or if against one or some of
several insert names) for Rs. for and interest, (or as
the case may be) and costs.

Dated the day of 19

This summons was taken out by

Advocate for

To
