

PART C.—RULES UNDER THE INDIAN DIVORCE
ACT, 1869

In exercise of the powers conferred by section 62 of the Indian Divorce Act (IV of 1869), the Punjab High Court has made the following rules :—

1. These rules may be called the Indian Divorce (Punjab) Rules, 1956.
2. Proceedings under the Act shall be originated by filing a petition to which shall be attached a certified copy of the certificate of the marriage.
3. (a) All such petitions shall be instituted as follows : —

'Short Title.'

How proceedings to be originated.

Title of petition.

In the Punjab High Court at _____ /District
Court at _____

Matrimonial Jurisdiction.

In re : the Indian Divorce Act.

A. B. Petitioner

versus

C. D. Respondent.

E. F. Co-respondent.

Petitions under Section (s)—of the Indian Divorce Act.

(b) In the body of the petition shall be stated :—

- (i) The place and date of the marriage and the name, status and domicile of the wife before the marriage;
- (ii) Whether the petitioner or respondent professes the Christian religion at the time when the petition is presented;

Content of petition.

- (iii) the domicile of the husband at the time when the petition is presented, and his occupation and the place or places of residence of the parties respectively at the time of the presentation of the petitions.
 - (iv) the principal permanent addresses where the petitioner and respondent cohabited within the jurisdiction, and in particular the place where they last resided together;
 - (v) whether there is living issue of the marriage and if so, the names, and dates of birth or ages, of such issue;
 - (vi) whether there have been in any Court any, and if so, what previous proceedings with reference to the marriage by or on behalf of either of the parties to the marriage, and the result of such proceedings;
 - (vii) the matrimonial offences charged, set out in separate paragraphs including particulars of the times and places of their alleged commission.
4. In cases where the petitioner is seeking a decree of nullity of marriage or of dissolution of marriage or of judicial separation, the petition shall further state that no collusion or connivance exists between the petitioner and the other party to the marriage, or alleged marriage.
5. The petition shall conclude with a prayer setting out particulars of the relief claimed, including the amount of any claim for damages and any order for custody of children which is sought.
6. Every petition shall be signed by the petitioner. In the case of a minor it shall be signed both by the minor and his or her next friend and shall be accompanied by the undertaking mentioned in section 49 of the Act and by a petition

Collusion or
Connivance.

Prayer of
petition.

Signature
of
petitioner.

for approval of the next friend by the Court. In the case of a petition brought under section 48 of the Act it shall be signed by the person bringing the suit.

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| 7. | Pursuant to section 47 of the Act every petition shall be verified in manner provided by Order VI, rule 15, Civil Procedure Code. | Verification of petition. |
| 8. | In every husband's petition for dissolution of marriage on the ground of adultery the alleged adulterers shall be made co-respondents in the suit unless the Judge shall otherwise direct by order on a petition, supported by affidavit pleading one or more of the grounds enumerated in section 11 of the Act. | Alleged adulterers to be co-respondents. |
| 9. | The term "respondent" in these rules shall include a co-respondent so far as the same is applicable. | Respondent includes co-respondents. |
| 10. | Every petition under the Act shall be accompanied by true copy(ies) thereof to be supplied to respondent (s). | Copy(ies) for respondent(s) to accompany the petition. |
| 11. | The notice of petition shall be served by the court on each respondent by delivery of a copy thereof together with a true copy of the petition in the manner prescribed in the Code of Civil Procedure for the service of summons or notice on a defendant or respondent. | How served. |
| 12. | Where personal service cannot be effected leave to substitute some other mode of service may be granted upon an application. | Application for substituted service. |
| 13. | When it is order that a notice to respondent(s) shall be advertised the form of advertisement shall be settled by the court and a copy of the newspaper containing the advertisement shall be placed on record. | Service by advertisement. |
| 14. | No order dispensing with service of a petition upon a party to be affected thereby shall be made by the Court. | Order dispensing with service of petition. |

- Application to stay restitution proceedings. 15. At any time after the commencement of proceedings for restitution of conjugal rights the respondent may apply to the Judge for an order to stay the proceedings by reason that he or she is willing to resume or to return to cohabitation with the petitioner.
- Answer to petition. 16. A respondent who has entered an appearance may within time limited by the notice file with the Court an answer to the petition. Such answer will be signed and verified in manner required by law for the verification of pleadings. A copy of the answer shall be delivered to the petitioner on the first hearing in the case.
- Reply to Answer. 17. Where in any suit for the dissolution of marriage it appears from the answer that the respondent prays for relief under section 15 of the Act, the petitioner shall file a reply to the answer within fourteen days from the date of filing the answer. Save as aforesaid no pleading subsequent to the answer shall be delivered except by the leave of the Court.
- No answer necessary if question of costs of custody of children. 18. After entering an appearance a respondent in a suit may without filing an answer be heard in respect of any question as to costs and a respondent who is husband or wife of the petitioner may be heard also as to custody of or access to children.
- Evidence by affidavit. 19. Where any party proposes under section 51 of the Act to verify his case by affidavit such affidavit or affidavits must be filed and copy(ies) supplied to the other party at least two days before the next date fixed for the hearing of the case. The other party shall forthwith apply, if necessary to the Court for directions as to the deponents being produced for cross-examination at the hearing.
- Security for Costs of Commission. 20. When an order is made for the examination of a witness on commission or *de hene asse*, a wife may apply for security for her costs of the

examination at the time of the order or subsequently by petition.

21. A Judge may direct, and any petitioner and any party to a cause who has entered an appearance may apply to the Court for a direction for, the separate trial of any issue or issues of fact, or any question as to the jurisdiction of the Court. Separate trial of issues.
22. A petition to the Court for reversal of a decree of judicial separation must set out the grounds on which the petitioner relies. Petition to reverse decrees.
23. Before such a petition can be filed an appearance on behalf of the party praying for a reversal of the decree of judicial separation must be entered in the suit in which the decree has been pronounced. Appearance of party praying reversal.
24. All subsequent pleadings and proceedings arising from such petition and answer shall be filed and carried on in the same manner as before directed in respect of an original petition and answer thereto so far as such directions are applicable. Subsequent pleadings and proceedings.
25. Any person other than an officer appointed under section 17-A of the Act wishing to show cause under section 16 of the Act against making absolute a *decree nisi* shall apply *ex parte* by petition to the Court for leave to show cause, if the leave be granted such person shall within seven days from the date of the order enter an appearance in the case in which such *decree nisi* has been pronounced and file affidavits setting forth the facts upon which he relies, and shall within seven days from appearance serve certified copies of such affidavits on the party or the counsel for the party in whose favour the *decree nisi* has been pronounced. Application to show cause.
26. The party in the suit in whose favour the *decree nisi* has been pronounced may within fourteen days after delivery of the affidavits file affidavits Affidavits in answer.

in answer, and the person showing cause against the *decree nisi* being made absolute may within fourteen days file affidavits in reply.

- No affidavit in rejoinder without leave.
27. No affidavits shall be filed in rejoinder to the affidavits to reply without leave of the Judge and subject to any direction by the Judge the matter shall be heard and decided in the same manner as provided in the case of an original petition.
- Six months between decree *nisi* and absolute.
28. The *decree nisi* shall not be made absolute till after the expiry of not less than six months from the day on which the *nisi decree* was pronounced.
- Petition for alimony.
29. A wife who is petitioner in a suit after service on the husband of the notice of petition, and a wife who is respondent, may after entering appearance, file a petition for alimony pending the suit under section 36 of the Act.
- Answer thereto.
30. The husband may within fourteen days or such further time as may be allowed file an answer thereto duly verified as required by law for a pleading.
- Hearing of summons.
31. Such notice shall be returnable before the Judge who may make an order on the saki petition or give such directions as to further evidence as he may think fit.
- Applications under sections 37 and 38 of Divorce Act.
32. All applications under section 37 of the Act shall be made to the Court and shall be supported by affidavit. Such applications must be brought within one month of the completion of the decree absolute declaring a marriage to be dissolved or decree for judicial separation, as the case may be by subsection (1) of section 45-G of the Act, for directions, from the Judge on a petition. Application for the appointment of a new trustee under section 38 of the Act shall be made by petition to the Court.

33. Monthly or weekly sums ordered to be paid to a wife for her maintenance and support under section 37 of the Act shall, unless otherwise ordered, commence from the date of the decree absolute or decree for judicial separation, as the case may be. Date payments under Section 37 to commence..
34. Pending the final determination of an application under section 37 of the Act an interim order may be made upon such terms as shall appear to the Court to be just and without prejudice to the effect of the order to be ultimately made. Interim order
35. Applications under sections 39 and 40 of the Act shall be made on petition to the Court. The Court may make such reference for enquiry or report and to such officer as it may think fit but no order for the settlement of a wife's property or for the settlement of damages or for variation of settlements shall be made except by the Court. Applications under sections 39 and 40 of Act.
36. Applications for interim orders under sections 41 and 43 of the Act shall be made by petition to the judge and shall be supported by affidavit. Applications under sections 41 and 43 of Act.
37. Applications under sections 42 and 44 of the Act shall be made by petition, which shall be verified as required by law for a plaint and which together with a notice returnable before the Judge shall be served personally upon the party or parties to be affected thereby except where leave shall have been obtained from the Judge to dispense with such service or to substitute some other form of service. Applications sections Act. Showing cause.
38. Any such party may show cause against the petition by filing affidavits or by filing an answer verified as required by law in the case of a pleading. Showing cause.
39. All bills of costs shall be referred to the Deputy Registrar or the Superintendent in the District Court for taxation and may be taxed by him without any special order for that purpose. Taxation.

Procedure to
obtain order
or wife's
costs.

40. When the pleadings are complete, or by orders of a Judge obtained on petition, at any earlier stage, a wife who is a petitioner or has filed an answer, may file her bill or bills of costs for taxation as against her husband and the Judge may ascertain or cause to be ascertained what is a sufficient sum of money to be paid into court or what is a sufficient security to be given by the husband to cover the cost of the wife for and incidental to the hearing of the cause, and may thereupon, unless the husband shall prove to the satisfaction of the Judge that wife has sufficient separate estate or shows other cause, issue an order to the husband to pay her costs upto the setting down of the cause and to pay into Court or secure the costs of hearing within a time to be fixed by the Judge. The Judge may in his discretion order the costs upto setting down of the cause to be paid into Court.

Application
under section
of th act.

41. An application to the High Court to remove a suit or proceeding under section 8 of the Act shall be made by an application to the Judge in open Court for a Rule upon the party or parties concerned to show cause against such removal.

Extention of
time.

42. The time fixed by these rules for the performance of any act may in any particular case, be enlarged by the orders of a Judge subject to such terms and conditions as to costs or other matters as the Judge may think fit to impose.

Forms.

43. The forms given in the Appendix to these rules may be used in the proceedings under the Indian Divorce Act, 1889.

(High Court notification No. 291-Rules/XXVII-16, dated the 13th December, 1956).

APPENDIX

FORM A

In the Punjab High Court at

District

(RULE 11)

MATRIMONIAL JURISDICTION

Suit No. of 19 .

_____Petitioner,

versus

_____Respondent,

_____Co-Respondent.

To

Whereas _____

has instituted a suit in this Court against you for _____
under the provisions of the Indian Divorce Act, Sections (s)

_____(a copy of this petition presented by the said
petitioner is sent to you herewith) and you are

hereby summoned to appear in this Court on the _____ day of _____ at 10 o'clock in the forenoon to answer the said suit, either in person or by recognized agent duly instructed and able to answer all material questions relating to the suit, or who shall be accompanied by some other person able to answer all such questions, or by an advocate/Pleader of this Court similarly instructed or accompanied, and you are directed to produce on that day all the documents upon which you intend to reply in support of your defence. You may file an answer with this Court within—days of the service of this notice.

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

Given under my hand and the seal of the Court this _____ day of _____.

By order,

Superintendent/Supdt. Judicial,

for District Judge /for Dy. Registrar

at _____.

Note.—Hours of attendance at the Court are from 10 A.M. till 4 P.M. daily, Sundays and holidays excepted.

FORM B
IN THE PUNJAB HIGH COURT AT _____
JUDICIAL DEPARTMENT

MATRIMONIAL JURISDICTION

REFERENCE SIDE CASE No. OF 19

Plaintiff,
versus

Respondent,

Co-Respondent.

SUIT :—For dissolution of marriage.

To

Whereas a decree for dissolution of marriage between the parties above-named was named by the District Judge of the District on the _____day of 19 , subject to confirmation by the Punjab High Court for which proceedings have been forwarded under section 17 of the Indian Divorce Act, 1869, Notice is hereby given to you that the _____ day of _____ 19 , has been fixed by this Court for the hearing of the reference; you are also hereby informed that unless you move this Court, on or before the said date, either in person or by duly authorised agent fully instructed by you 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, or by

an Advocate or Vakil of this Court, so instructed, to confirm the said decree, the Court will not take the proceedings into consideration.

Given under my hand and the seal of the Court,
this _____ day of _____, 19 .

By orders, &c.,

SUPERINTENDENT, JUDICIAL,
for DEPUTY REGISTRAR.