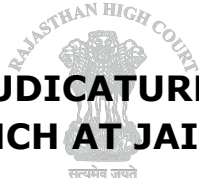




**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Civil Writ Petition No. 12146/2020

Smt. Paras D/o Late Sugna

----Petitioner

Versus

State Of Rajasthan

----Respondent

For Petitioner(s) : Mr. A.K. Sharma, Sr. Adv.
Mr. M.M. Ranjan, Sr. Adv.
Mr. Prahlad Sharma, President Bar
Association, Jaipur Bench, Jaipur
Mr. A.K. Gupta, Sr. Adv.
Ms. Anita Aggarwal
Mr. Vigyan Shah
Mr. Sunil Samdaria
Mr. Punit Singhvi

For Respondent(s) : Mr. Rajendra Prasad, Advocate
General

HON'BLE MR. JUSTICE SAMEER JAIN
Order

13/02/2024

1. Matter comes up in 'Orders' category.
2. For the purpose of illustration, the particulars are being taken from S.B. Civil Writ Petition No. 12146/2020. In the instant matter, notices were issued vide order dated 12.12.2023 and were made returnable on 12.12.2024. However, as per office report dated 07.02.2024, the requisite PF and notices were not filed by learned counsel for the petitioner and therefore the matter had to be listed in 'Orders' category today before this Court.
3. In yet another case (in S.B. Civil Writ Petition No. 14186/2015), the writ petition filed in the year 2015 is being continuously listed in the 'Orders' category on account of non-service upon the respondent.
4. At this juncture, learned members of the Bar submitted that precious judicial time is wasted everyday to pass orders in such



cases, which are not entirely of judicial character, and have to be passed to overcome the procedural irregularity.

5. The members of Bar, in one voice, submitted that the Rajasthan High Court Rules, 1952 (for short "HC Rules"), more particularly Chapter II of the HC Rules, which deals with 'Powers and Duties of the Registrar' specifically addresses this issue. It is highlighted that as per Rule 7 and Rule 10 of the HC Rules, the Registrar (Judicial) is empowered to deal with almost all the cases falling under the 'Orders' category. Therefore, if the HC Rules are duly implemented, and the matters in the 'Orders' category are not listed before the Courts at the first instance, same would be beneficial to both the members of the Bar as well as the Courts. It is also highlighted that the exercise of powers by the Registrar (Judicial) does not impinge upon the authority of the Courts and any contested matter can always be referred to the Courts, as opposed to the Courts being the first authority to pass orders on service of notices. Learned members of the Bar also highlighted the practice being followed by the Hon'ble Delhi High Court as well as the Hon'ble Supreme Court, wherein the Registrar holds Court to pass appropriate orders. It is contended that the HC Rules also permit the same, and in the past that was the practice being followed.

6. After hearing the concerns and suggestions from the members of Bar, this Court requested further assistance from the learned Advocate General.

7. Learned Advocate General concurred with the suggestion made by members of the Bar that uncontested matters in 'Orders' category can be listed before the Registrar as per the HC Rules.



Learned Advocate General also opined that the present system of listing of every case, which results in creation of heavy cause lists wherein non-reached cases are adjourned for long period of time, has served its purpose.

8. Heard the submissions from the members of Bar and the learned Advocate General about unnecessary listing of cases before the Courts in 'Orders' category.

9. This Court has also gone through the statistics of cases being listed before this Court for the past two weeks. Out of a total of about 8666 cases being listed, 2256 were listed in 'Orders' category, which constitute over 25% of the cause list. The statistics of the cases are reproduced as under:

DATE		CASE LISTED			
		A	O	H	TOTAL
1.	19.01.2024	219	216	6	441
2.	22.01.2024	747	193	22	962
3.	23.01.2024	350	156	11	517
4.	24.01.2024	366	109	38	513
5.	25.01.2024	0	0	0	N/S
6.	29.01.2024	531	205	13	749
7.	30.01.2024	559	285	4	848
8.	31.01.2024	409	155	39	603
9.	01.02.2024	492	112	13	617
10.	02.02.2024	312	73	8	393
11.	05.02.2024	284	55	4	343
12.	06.02.2024	416	136	10	562
13.	07.02.2024	236	134	37	407
14.	08.02.2024	297	134	15	446
15.	09.02.2024	444	172	25	641
16.	12.02.2024	491	121	12	624
TOTAL		6153	2256	257	8666



10. Having heard the submissions, it is apposite to reproduce and consider the relevant HC Rules

"7. Functions, powers and duties of the Registrar.-

In addition to other functions, powers and duties of the Registrar under these Rules or other law, the following shall be his functions, powers and duties in relation to judicial proceedings, namely.— "

(i) to dispose of all matters relating to the service of notices and other processes including the signing and issuing of warrants issued under the orders of the Court;

(ii) to allow the removal of formal defects in any memorandum of appeal or objection, petition or application;

(iii) to admit, issue necessary orders in, and dispose of uncontested applications made:—

Under Order XXII of the Code.—

(a) to bring on record the legal representatives of deceased parties, provided that no question of abatement or limitation arises; or

(b) to record the assignment, creation or devolution of any interest during the pendency of a case; or

Under Order XXXII of the Code-

for appointment or removal of a next friend or guardian ad litem, including fixation of fees and expenses of the next friend or guardian;

(iv) to deal with a motion for the admission of an application for leave to appeal to the Supreme Court in all cases in which an order for issue of notice may be made as a matter of course;

(v) to receive plaint, issue notice or fix date for the filing of written statement in a proceeding under the original ordinary or extraordinary jurisdiction of the Court, with liberty to adjourn any matter to the Judge seized of the case in Chambers;

(vi) to deal with matters relating to the payment of expenses and allowances to jurors and witnesses;

(vii) to direct that a security bond furnished under the provisions of rule 10 of Order XLI of the Code be sent to the court below for verification and report;

(viii) to send decrees and orders passed by the Court in the exercise of its original ordinary or extraordinary jurisdiction to other courts for execution;

(ix) under the Indian Succession Act, 1925—

(a) to receive an inventory of the property, credits and debts of the deceased to which the executor or Administrator is entitled, or an account of the estate showing the assets and the application or disposal thereof;





- (b) to require an executor or administrator to exhibit an inventory or account under section 317;
- (c) to grant extension of time for filing an inventory or account;
- (d) to place on record an inventory or account when in order;
- (e) to issue necessary notices in connection with matters mentioned in clauses (a) and (b), with liberty to adjourn any matter to the Bench concerned;
- (x) to verify a compromise or record the statement on oath of any person, under the orders of the Court;
- (xi) to extend the time for the submission of findings by the court below in a case in which issues have been referred for trial to that court under rule 25 of Order XLI of the Code;
- (xii) to dispense with copies of judgments where such copies have been filed in at least one connected appeal or revision;
- (xiii) to deal with all matters connected with the progress of a case subject to such orders as the court may pass from time to time including the receiving of affidavits and the granting of time for filing the same;
- (xiv) to direct that any matter be laid before the Court; or
- (xv) to do such other act as may be directed by the Court
- 10. Additional powers.-** The Chief Justice may by order authorise the Registrar or any other officer. —

(a) To admit a memorandum of appeal from the decree or order of a Subordinate Civil Court and determine whether notice shall be issued at once to the other party or the appeal shall be put for hearing under rule 11 of Order XLI of the Code or otherwise before the Court;

(b) to dispose of a contested application for impleading the legal representative of a deceased party;

(c) to receive and dispose of an application for the withdrawal of an appeal or for a consent decree or order;

(d) to receive and dispose of an application for the return of a document; or

(e) to receive and dispose of an application under sub-rule (1) of rule 5 or rules 6, 8 or 10 of Order XLI of the Code.

*1 (f) to admit a petition of an appeal from the decision of a Subordinate Criminal Court other than an appeal under Section 417 or under section 420 of Criminal Procedure Code and determine whether notice under section 422 of Criminal Procedure Code shall be issued at once or the appeal shall be put for hearing and orders under section 421 of the Code

*2 (g) to dispose of applications under Rules 219, 223, 224, 225 and 243 and applications under Rule 68 for expediting for the hearing of a case.

*3 (h) to dispose of applications for striking out or adding party,





*3 (i) to dispose of applications for enlargement or abridgement of time except where the time is fixed by the Court and except for condonation of delay in presentation of appeal.

*3 (j) to dispose of all applications for directions regarding the preparation of record in an appeal, petition or other proceeding.

*3 (k) to dispose of all matters relating to service of summons, notices and other process upon the parties including applications for substituted service.

The Registrar or any other officer authorised under this Rule may adjourn any of the above matters to Court.

Where an officer other than the Registrar has been authorized under this Rule, the Registrar may exercise his function in his absence.

In the absence of the Registrar where he has been authorized under this Rule or where an officer other than the Registrar has been so authorized in the absence of both, a motion relating to any of the above matters may be made in

Court and all such matters may be listed before the Court for disposal.

158. Issue of Notice by Registrar in certain cases.-

First appeals under section 18 of the Rajasthan High Court Ordinance, and references under subsections (1) and (2) of section 66 of the Indian Income-tax Act, if found in order, shall be submitted to the Registrar for an order for the issue of notice for hearing parties.

163. Issue of notice and requisition for record.-

Where an order has been made directing notice of an appeal, revision or reference to issue, the office shall take immediate steps to cause notice thereof to be served on such persons as are indicated in rule 171 and shall also give notice thereof to the court from whose decree or order the appeal or revision has been presented or by which the reference has been made.

The office shall, if not directed otherwise, also send a requisition to such court asking it to transmit within ten days of the receipt of such requisition all material papers of the case or, if so directed, a part thereof, unless such record has already been received

172. Service of notice.- The provisions of Order V of the Code shall apply to the service of notice in all proceedings in this Court:

Provided that.—

(a) where a party is represented by an Advocate, notice of any proceeding in the case shall, unless ordered otherwise, be served on such Advocate;

(b) notice to a person residing in a presidency town or notice of an interlocutory application may be sent by registered post;





(c) where the Registrar or the Court directs that a notice be served in a particular manner, it shall, notwithstanding anything contained in this Rule, be served in such manner.

11. This Court is in agreement with the submissions that the HC Rules do permit the Registrar to deal with cases wherein orders have to be passed, not on merits, but merely to overcome the procedural irregularities. It must also be recorded that this Court is not unsympathetic to the operational difficulties being faced by the members of the Bar and the staff attached to the Courts on account of the heavy cause lists wherein most matters are 'not reached'.

12. However, before passing any orders on the issue, this Courts deems it appropriate to direct formation of a Committee of stakeholders, headed by the learned Advocate General, and consisting of members of the Bar along with the Registrar (Judicial), to put fourth their recommendation / draft Standard of Procedure, for consideration of Hon'ble The Chief Justice / Full Court, so that appropriate orders can be passed after due deliberation.

13. The Committee so constituted shall have the following members:

- (i) Mr. Rajendra Prasad, Advocate General
- (ii) Mr. A.K. Sharma, Sr. Advocate.
- (iii) Mr. Prahlad Sharma, President Bar Association.
- (iv) Ms. Anita Aggarwal, Advocate.
- (v) Mr. Sunil Samdaria, Advocate.

15. The report of the Committee may be presented within a period of six weeks.



16. In the present matter, as requisite PF and notices have not been filed, the same be done within a period of two weeks and the matter be listed on 04.03.2024.

(SAMEER JAIN),J



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