

(b) serve a copy of such documentary evidence on the respondent at least five days prior to the date of the hearing.

(3) Notwithstanding anything to the contrary, sub-rules (1) and (2) shall not require documentary evidence to be:—

(a) filed if such documentary evidence has already been filed; or

(b) served on a party on whom it has already been served.

6. Orders that may be made by Court.—(1) On an application made under this Order, the Court may make such orders that it may deem fit in its discretion including the following:—

(a) judgment on the claim;

(b) conditional order in accordance with Rule 7 mentioned hereunder;

(c) dismissing the application;

(d) dismissing part of the claim and a judgment on part of the claim that is not dismissed;

(e) striking out the pleadings (whether in whole or in part); or

(f) further directions to proceed for case management under Order XV-A.

(2) Where the Court makes any of the orders as set forth in sub-rule (1) (a) to (f), the Court shall record its reasons for making such order.

7. Conditional order.—(1) Where it appears to the Court that it is possible that a claim or defence may succeed but it is improbable that it shall do so, the Court may make a conditional order as set forth in Rule 6 (1) (b).

(2) Where the Court makes a conditional order, it may:—

(a) make it subject to all or any of the following conditions:—

(i) require a party to deposit a sum of money in the Court;

(ii) require a party to take a specified step in relation to the claim or defence, as the case may be;

(iii) require a party, as the case may be, to give such security or provide such surety for restitution of costs as the Court deems fit and proper;

(iv) impose such other conditions, including providing security for restitution of losses that any party is likely to suffer during the pendency of the suit, as the Court may deem fit in its discretion; and

(b) specify the consequences of the failure to comply with the conditional order, including passing a judgment against the party that have not complied with the conditional order.

8. Power to impose costs.—The Court may make an order for payment of costs in an application for summary judgment in accordance with the provisions of sections 35 and 35A of the Code.’.

6. Omission of Order XV.—Order XV of the Code shall be omitted.

7. Insertion of Order XV-A.—7. After Order XV of the Code, the following Order shall be inserted, namely:—

“ORDER XV A

CASE MANAGEMENT HEARING

1. First Case Management Hearing.—The Court shall hold the first Case Management Hearing, not later than four weeks from the date of filing of affidavit of admission or denial of documents by all parties to the suit.

2. Orders to be passed in a Case Management Hearing.—In a Case Management Hearing, after hearing the parties, and once it finds that there are issues of fact and law which require to be tried, the Court may pass an order—

- (a) framing the issues between the parties in accordance with Order XIV of the Code of Civil Procedure, 1908 (5 of 1908) after examining pleadings, documents and documents produced before it, and on examination conducted by the Court under Rule 2 of Order X, if required;
- (b) listing witnesses to be examined by the parties;
- (c) fixing the date by which affidavit of evidence to be filed by parties;
- (d) fixing the date on which evidence of the witnesses of the parties to be recorded;
- (e) fixing the date by which written arguments are to be filed before the Court by the parties;
- (f) fixing the date on which oral arguments are to be heard by the Court; and
- (g) setting time limits for parties and their advocates to address oral arguments.

3. Time limit for the completion of a trial.—In fixing dates or setting time limits for the purposes of Rule 2 of this Order, the Court shall ensure that the arguments are closed not later than six months from the date of the first Case Management Hearing.

4. Recording of oral evidence on a day-today basis.—The Court shall, as far as possible, ensure that the recording of evidence shall be carried on, on a day-to-day basis until the cross-examination of all the witnesses is complete.

5. Case Management Hearings during a trial.—The Court may, if necessary, also hold Case Management Hearings anytime during the trial to issue appropriate orders so as to ensure adherence by the parties to the dates fixed under Rule 2 and facilitate speedy disposal of the suit.

6. Powers of the Court in a Case Management Hearing.—(1) In any Case Management Hearing held under this Order, the Court shall have the power to—

- (a) prior to the framing of issues, hear and decide any pending application filed by the parties under Order XIII-A;
- (b) direct parties to file compilations of documents or pleadings relevant and necessary for framing issues;
- (c) extend or shorten the time for compliance with any practice, direction or Court order if it finds sufficient reason to do so;
- (d) adjourn or bring forward a hearing if it finds sufficient reason to do so;
- (e) direct a party to attend the Court for the purposes of examination under Rule 2 of Order X;
- (f) consolidate proceedings;
- (g) strike off the name of any witness or evidence that it deems irrelevant to the issues framed;
- (h) direct a separate trial of any issue;
- (i) decide the order in which issues are to be tried;
- (j) exclude an issue from consideration;
- (k) dismiss or give judgment on a claim after a decision on a preliminary issue;
- (l) direct that evidence be recorded by a Commission where necessary in accordance with Order XXVI;
- (m) reject any affidavit of evidence filed by the parties for containing irrelevant, inadmissible or argumentative material;
- (n) strike off any parts of the affidavit of evidence filed by the parties containing irrelevant, inadmissible or argumentative material;

- (o) delegate the recording of evidence to such authority appointed by the Court for this purpose;
- (p) pass any order relating to the monitoring of recording the evidence by a commission or any other authority;
- (q) order any party to file and exchange a costs budget;
- (r) issue directions or pass any order for the purpose of managing the case and furthering the overriding objective of ensuring the efficient disposal of the suit.

(2) When the Court passes an order in exercise of its powers under this Order, it may—

- (a) make it subject to conditions, including a condition to pay a sum of money into Court; and
- (b) specify the consequence of failure to comply with the order or a condition.

(3) While fixing the date for a Case Management Hearing, the Court may direct that the parties also be present for such Case Management Hearing, if it is of the view that there is a possibility of settlement between the parties.

7. Adjournment of Case Management Hearing.—(1) The Court shall not adjourn the Case Management Hearing for the sole reason that the advocate appearing on behalf of a party is not present:

Provided that an adjournment of the hearing is sought in advance by moving an application, the Court may adjourn the hearing to another date upon the payment of such costs as the Court deems fit, by the party moving such application.

(2) Notwithstanding anything contained in this Rule, if the Court is satisfied that there is a justified reason for the absence of the advocate, it may adjourn the hearing to another date upon such terms and conditions it deems fit.

8. Consequences of non-compliance with orders.—Where any party fails to comply with the order of the Court passed in a Case Management Hearing, the Court shall have the power to—

- (a) condone such non-compliance by payment of costs to the Court;
- (b) foreclose the non-compliant party's right to file affidavits, conduct cross-examination of witnesses, file written submissions, address oral arguments or make further arguments in the trial, as the case may be, or
- (c) dismiss the plaint or allow the suit where such non-compliance is wilful, repeated and the imposition of costs is not adequate to ensure compliance.”.

8. Amendment of Order XVIII.—In Order XVIII of the Code, in Rule 2, for sub-rules (3A), (3B), (3C), (3D), (3E) and (3F), the following shall be substituted, namely:—

“(3A) A party shall, within four weeks prior to commencing the oral arguments, submit concisely and under distinct headings written arguments in support of his case to the Court and such written arguments shall form part of the record.

(3B) The written arguments shall clearly indicate the provisions of the laws being cited in support of the arguments and the citations of judgments being relied upon by the party and include copies of such judgments being relied upon by the party.

(3C) A copy of such written arguments shall be furnished simultaneously to the opposite party.

(3D) The Court may, if it deems fit, after the conclusion of arguments, permit the parties to file revised written arguments within a period of not more than one week after the date of conclusion of arguments.

(3E) No adjournment shall be granted for the purpose of filing the written arguments unless the Court, for reasons to be recorded in writing, considers it necessary to grant such adjournment.

(3F) It shall be open for the Court to limit the time for oral submissions having regard to the nature and complexity of the matter.”.

9. Amendment of Order XVIII.—In Order XVIII of the Code, in Rule 4, after sub-rule (I), the following sub-rules shall be inserted, namely:—

“(IA) The affidavits of evidence of all witnesses whose evidence is proposed to be led by a party shall be filed simultaneously by that party at the time directed in the first Case Management Hearing.

(IB) A party shall not lead additional evidence by the affidavit of any witness (including of a witness who has already filed an affidavit) unless sufficient cause is made out in an application for that purpose and an order, giving reasons, permitting such additional affidavit is passed by the Court.

(IC) A party shall however have the right to withdraw any of the affidavits so filed at any time prior to commencement of cross-examination of that witness, without any adverse inference being drawn based on such withdrawal:

Provided that any other party shall be entitled to tender as evidence and rely upon any admission made in such withdrawn affidavit.”.

10. Amendment to Order XIX.—In Order XIX of the Code, after Rule 3, the following Rules shall be inserted, namely:—

“4. Court may control evidence.—(I) The Court may, by directions, regulate the evidence as to issues on which it requires evidence and the manner in which such evidence may be placed before the Court.

(2) The Court may, in its discretion and for reasons to be recorded in writing, exclude evidence that would otherwise be produced by the parties.”.

5. Redacting or rejecting evidence.—A Court may, in its discretion, for reasons to be recorded in writing—

(i) redact or order the redaction of such portions of the affidavit of examination-in-chief as do not, in its view, constitute evidence; or

(ii) return or reject an affidavit of examination-in-chief as not constituting admissible evidence.

6. Format and guidelines of affidavit of evidence.—An affidavit must comply with the form and requirements set forth below:—

(a) such affidavit should be confined to, and should follow the chronological sequence of, the dates and events that are relevant for proving any fact or any other matter dealt with;

(b) where the Court is of the view that an affidavit is a mere reproduction of the pleadings, or contains the legal grounds of any party’s case, the Court may, by order, strike out the affidavit or such parts of the affidavit, as it deems fit and proper;

(c) each paragraph of an affidavit should, as far as possible, be confined to a distinct portion of the subject;

(d) an affidavit shall state—

(i) which of the statements in it are made from the deponent’s own knowledge and which are matters of information or belief; and

(ii) the source for any matters of information or belief;

(e) an affidavit should—

(i) have the pages numbered consecutively as a separate document (or as one of several documents contained in a file);

(ii) be divided into numbered paragraphs;

(iii) have all numbers, including dates, expressed in figures; and

(iv) if any of the documents referred to in the body of the affidavit are annexed to the affidavit or any other pleadings, give the annexures and page numbers of such documents that are relied upon.”.

11. Amendment of Order XX.—In Order XX of the Code, for Rule 1, the following Rule shall be substituted, namely:—

“(1) The ¹[Commercial Court, Commercial Appellate Court], Commercial Division, or Commercial Appellate Division, as the case may be, shall, within ninety days of the conclusion of arguments, pronounce judgment and copies thereof shall be issued to all the parties to the dispute through electronic mail or otherwise.”.

²[12. After Appendix H, the following Appendix shall be inserted, namely:—

“APPENDIX-I

STATEMENT OF TRUTH

(Under First Schedule, Order VI- Rule 15A and Order XI- Rule 3)

I ----- the deponent do hereby solemnly affirm and declare as under:

1. I am the party in the above suit and competent to swear this affidavit.
2. I am sufficiently conversant with the facts of the case and have also examined all relevant documents and records in relation thereto.
3. I say that the statements made in -----paragraphs are true to my knowledge and statements made in -----paragraphs are based on information received which I believe to be correct and statements made in ---paragraphs are based on legal advice.
4. I say that there is no false statement or concealment of any material fact, document or record and I have included information that is according to me, relevant for the present suit.
5. I say that all documents in my power, possession, control or custody, pertaining to the facts and circumstances of the proceedings initiated by me have been disclosed and copies thereof annexed with the plaint, and that I do not have any other documents in my power, possession, control or custody.
6. I say that the above-mentioned pleading comprises of a total of ---- pages, each of which has been duly signed by me.
7. I state that the Annexures hereto are true copies of the documents referred to and relied upon by me.
8. I say that I am aware that for any false statement or concealment, I shall be liable for action taken against me under the law for the time being in force.

Place:

Date:

DEPONENT

VERIFICATION

I, do hereby declare that the statements made above are true to my knowledge.

Verified at [place] on this [date]

DEPONENT.”.]

1. Subs. by Act 28 of 2018, s. 18, for “Commercial Court” (w.e.f. 3-5-2018).
2. Ins. by s. 18, *ibid.*, (w.e.f. 23-10-2015).