

The Odisha Gazette

EXTRAORDINARY
PUBLISHED BY AUTHORITY

No. 859 CUTTACK, THURSDAY, MAY 16, 2019/BAISAKHA 26, 1941

HIGH COURT OF ORISSA, CUTTACK

NOTIFICATION

The 16th May 2019

No. 939-R.---In exercise of the rule making power under Part-X of the Code of Civil Procedure, 1908(Act No-5 of 1908) read with clause (d) of sub-section (2) of Section 89 of the said Code and pursuant to the direction of Hon'ble the Supreme Court of India, Dtd.22.02.2013 in Civil Appeal No.1794/2013 (K. Srinivas Rao Vrs. D.A. Deepa) for setting up pre-litigation desks/clinics; in all the Mediation Centres, the High Court of Orissa do hereby make the following rules for amendment of the Civil Procedure Mediation Rules, 2007, namely:-

PART-II

1. Title:-

(a) These rules shall be called the Civil Procedure Mediation (Amendment) Rules, 2019.

(b) They shall come into force on the date of their publication in the *Odisha Gazette*.

2. In the Civil Procedure Mediation Rules, 2007, in sub-rule (5) of rule 26, after Sl. No-4, the following honorarium structure for Mediators shall be inserted, namely;-

Sl.No	Nature of Cases	Honorarium to be paid to the Mediators
5.	Pre-litigation matter	Rs 2000 for successful mediation No honorarium for unsuccessful mediation

3. In the Civil Procedure Mediation Rules, 2007, after rule 28, the following rule shall be inserted, namely;-

29. Pre-Litigation Mediation:-Settlement of Pre-Litigation disputes at the High Court/District Court Mediation Centres are to be made in the following manner:-

- (i) There shall be pre-litigation desks/clinics at all the Mediation Centres, to make efforts for settlement of matrimonial disputes and other disputes including Commercial disputes at pre-litigation stage.
- (ii) As per concept of pre-litigation Mediation, disputes which arise out of legal relationship, matrimonial disputes, matters of civil disputes, money matters, contractual disputes, and commercial disputes etc., prior to filling of FIR or filling of cases in any court of law may be received in the Pre-Litigation desks/clinics of the Mediation Centres.
- (iii) A party to a pre-litigation dispute, shall make an application in the Form-1 specified in Schedule-I to the Coordinator of the Mediation Centre by submitting at the pre-litigation desk/clinic either by post or by hand mentioning his/her grievance in details.

Provided that in case of domestic violence disputes, the Protection Officer may if he/she considers appropriate refer the grievance of the aggrieved person to pre-litigation desk/clinic of the respective Mediation Centres with reasons in writing by annexing the grievance with Form-1 prior to filing complaint in Court of law.

- (iv) The pre-litigation commercial disputes shall be governed and dealt with as per the provisions of the Commercial Courts (Pre-Institution Mediation and Settlement) Rules, 2018.
- (v) The pre-litigation applications of the parties shall be entered in a Registrar maintained for the purpose by the pre-litigation desks/clinics of the Mediation Centres.
- (vi) After receipt of such application, the Coordinator of the Mediation Centre shall broadly examine the basis and prospect of the claim. If he/ she feels just to proceed ahead having regard to territorial jurisdiction and nature of dispute, shall issue notice to the adversary as per Form-2 specified in Schedule-I either through registered/speed post or electronic means including e-mail and like to appear on the date mentioned and give consent to participate in the mediation process.

- (vii) Where the notice issued under sub-rule(vi) remains unacknowledged or where the opposite party refusesto participate in the mediation process, the Coordinator shall treat the mediation process to be a non-starter and make a report as per Form No-3 specified in Schedule-I and endorse the same to the applicant and the opposite party.

Provided that in case where the opposite party(s), after receiving the notice under sub-rule (vi) seeks further time for appearance by making a request in writing at least two days before the scheduled date of appearance, the Coordinator may if it thinks fit, fix an alternate day not later than 10 (ten) days from the date of receipt of such request from the opposite party.

- (viii) Where both the parties to the dispute appear before the Coordinator and give consent to participate in the mediation process, the Coordinator shall assign the pre-litigation dispute to a Mediator and fix a date for their appearance before the said Mediator and ensure that the mediation process is completed within a period of three months from the date of application unless the period is extended for further two months withthe consent of the applicant and the opposite party.
- (ix) Where both the parties reach at a mutually agreed settlement in regard to all or some points of dispute, the same shall be reduced in to writing by the Mediator and shall be signed by the parties or their power of attorney holder. If any counsel has represented the parties, they shall attest the signature of their respective clients. The Mediator shall sign the agreement endorsing the result of mediation and submit the same to the Coordinator. Thereafter the Coordinator shall endorse the nature of disposal of the application and the result of the mediation thereon and give true copy of the same to the parties. Such settlement agreement shall be as per Form-4 specified in Schedule-I.
- (x) Where no settlement is arrived at between the parties within the time specified in sub-rule(viii) or where the Mediator is of the opinion that the settlement is not possible, the Mediator shall submit a report to theCoordinator, with reasons in writing as per Form-5 specified in Schedule-I. Then the mediation process be treated as unsuccessful and accordingly closed. Copy of the report shall be given to the parties.

- (xi) The disputes settled at the pre-litigation stage shall not be treated as court litigation and in terms of section 74 of the Arbitration and Conciliation Act, 1996, the settlement agreement shall have the same status and effect as if it is an arbitral award on agreed terms on the substance of the dispute rendered by an arbitral tribunal under section 30.
- (xiii) The Mediation Centre or the Mediator, as the case may be shall not retain the hard or soft copies of the documents exchanged between the parties or submitted to the Mediator or notes prepared by the Mediator beyond a period of six months other than the application for mediation under sub-rule(iii), Notice issued under sub-rule(vi), settlement agreement under sub-rule(ix) and unsuccessful report under sub-rule(x).
- (xiv) The mediation record after its disposal shall be kept in the High Court or District Court record room as the case may be till a permanent record room is made available.
- (xv) The Legal Services Authorities shall make efforts for wide publicity of settlement of the Pre-Litigation disputes through Pre-Litigation desks/clinics of the Mediation Centres.

BY ORDER OF THE HIGH COURT

**(A.K. Paschimakabat)
COORDINATOR,
MEDIATION CENTRE**

SCHEDULE-I

Form-1
Pre-litigation Mediation Application Form
[See Rule-29(iii)]

1. Name of the Applicant(s): _____

2. Address _____

Contact No. _____ E-mail:- _____

3. Name of the Opposite Party(s): _____

Address _____

Contact No. _____ E-mail:- _____

4. Nature of Dispute: _____

Undertaking

I, the above mentioned applicant, do hereby solemnly affirm and declare as under:

1. That the case/ dispute mentioned above, has arisen out of legal relationship.
2. That I desire to get my dispute resolved through Mediation in the Mediation Centre and would abide by the terms of settlement to be reached between the parties.
3. I also undertake to abide by the terms and conditions of Pre-litigation Mediation.

Dated:

Signature of the Applicant

Form-2
Notice to the Opposite Party(s) for Pre-Litigation Mediation
[See Rule-29(vi)]

To,

1. Whereas a pre-litigation dispute has been submitted to (Name of the Mediation Centre) _____ by (Name of the applicant) _____ against (Name of Opposite Party) _____ requesting for pre-litigation mediation in terms of Rule 29 of the Civil Procedure Mediation Rules, 2007. A Copy of the mediation application form is attached herewith.
2. You being the Opposite Party(s) is here by directed to appear in person or through your duly authorized representative or Counsel on _____ (Date) _____ (Time) at the (Mediation Centre Address) and convey your consent to participate in the Pre-Litigation Mediation process.
3. Your failure to appear before the Mediation Centre on the scheduled date and time would be deemed as your refusal to participate in the Pre-Litigation Mediation process initiated by the applicant.
4. In case, you require to reschedule the date and time of appearance, the same can be done either by you or through your authorized representative or counsel by making a request in writing at least two days prior to the scheduled date of appearance.

Date:-

Signature of the Coordinator

Form-3
Non-Starter Report
[See Rule-29(vii)]

Name and Address of the Mediation Centre: _____

1. Name of the Applicant(s): _____
2. Date of application for Pre-Litigation Mediation: _____
3. Name of the Opposite Party(s): _____
4. Date scheduled for appearance of Opposite Party(s) _____
5. Non-Starter Report reason _____

Date:

Signature of the Coordinator

Form-4
Settlement Agreement/Report
[See Rule-29(ix)]

Name and Address of the Mediation Centre: _____

1. Name of the Mediator: _____
2. Name of the Applicant(s): _____
3. Name of the Opposite Party(s): _____
4. Date of application for Pre-Litigation Mediation: _____
5. Date(s) of Mediation: _____
6. No. of sittings and duration of sittings: _____
7. Terms of settlement(attach separate sheets if required): _____

Date: _____

Signature of Applicant(s)

Signature of Opposite Party(s)

Signature of Mediator

Endorsement of Coordinator: _____

Signature of Coordinator

Form-5
Failure/ Unsuccessful Report
[See Rule-29(x)]

Name and Address of the Mediation Centre: _____

1. Name of the Mediator: _____
2. Name of the Applicant(s): _____
3. Name of the Opposite Party(s): _____
4. Date of application for Pre-Litigation Mediation: _____
5. Date(s) of Mediation: _____
6. No. of sittings and duration of sittings: _____
7. Terms of reasons for failure (attach separate sheets if required): _____

Date:

Signature of Applicant(s)

Signature of Opposite Party(s)

Signature of Mediator

Endorsement of Coordinator: _____

Signature of Coordinator

The Orissa Gazette

EXTRAORDINARY
PUBLISHED BY AUTHORITY

No. 606 CUTTACK, WEDNESDAY, MARCH 12, 2008/FALGUNA 22, 1929

ORISSA HIGH COURT, CUTTACK

NOTIFICATION

The 4th March 2008

No. 101-R.—In exercise of the rule making power under Part X of the Code of Civil Procedure, 1908 (5 of 1908) and clause (d) of sub-section (2) of Section 89 of the said Code, the High Court of Orissa do hereby make the following Rules, namely:—

PART – II

CIVIL PROCEDURE MEDIATION RULES

1. Title:

- (a) These Rules in Part II shall be called the Civil Procedure Mediation Rules, 2007.
- (b) They shall come into force on the date of their publication in the *Orissa Gazette*.

2. Appointment of Mediator:

(a) Parties to a suit may all agree on the name of the sole mediator for mediating between them.

(b) Where, there are two sets of parties and are unable to agree on a sole mediator, each set of parties shall nominate a mediator.

(c) Where parties agree on a sole mediator under clause (a) or where parties nominate more than one mediator under clause (b), the mediator need not necessarily be from the panel of mediators referred to in Rule 3 nor bear the qualifications referred to in Rule 4 but should not be a person who suffers from the disqualifications referred to in Rule 5.

(d) Where there are more than two sets of parties having diverse interests, each set shall nominate a person on its behalf and the said nominees shall select the sole mediator and failing unanimity in that behalf, the Court shall appoint a sole mediator.

3. Panel of mediators:

(a) The High Court shall, for the purpose of appointing mediators between parties in the suits filed on its original side prepare a panel of mediators. Such panel of mediators shall be published on the Notice Board of the High Court within thirty days of the coming into force of these Rules. A copy of the panel of mediators shall be sent to the High Court Bar Association.

(b) (i) The Courts of the Principal District and Sessions Judge in each District or the Courts of the Principal Judge of the City Civil Court or Courts of equal status shall, for the purposes of appointing mediators to mediate between parties in suits filed on their original side, prepare a panel of mediators, within a period of sixty days of the commencement of these Rules, after obtaining the approval of the High Court to the names included in the panel, and shall publish the same on their respective Notice Board.

(ii) Copies of the said panels referred to in clause (i) shall be forwarded to all the Courts of equivalent jurisdiction or Courts subordinate to the Courts referred to in sub-clause (i) and to the Bar Associations attached to each of the Courts.

(c) The consent of the persons whose names are included in the panel shall be obtained before empanelling them.

(d) The panel of names shall contain a detailed Annexure giving details of the qualifications of the mediators and their professional or technical experience in different fields.

4. Qualifications of persons to be empanelled under Rule 3:

The following persons shall be treated as qualified and eligible for being enlisted in the panel of mediators under Rule 3, namely:

(a) (i) Retired Judges of the Supreme Court of India;

(ii) Retired Judges of the High Court;

(iii) Retired District and Sessions Judges or retired Judges of the City Civil Court or Courts of equivalent status.

(b) Legal practitioners with at least fifteen years standing at the Bar at the level of the Supreme Court or the High Court or the District Courts or Courts of equivalent status.

(c) Experts or other professionals with at least fifteen years standing or retired senior bureaucrats or retired senior executives.

(d) Institutions, which are themselves experts in mediation and have been recognized

as such by the High Court, provided the names of its members are approved by the High Court initially or whenever there is change in membership.

5. Disqualifications of persons:

The following persons shall be deemed to be disqualified for being empanelled as mediators:—

- (i) any person who has been adjudged as insolvent or is declared of unsound mind; or
- (ii) any person against whom criminal charges involving moral turpitude are framed by a criminal court and are pending; or
- (iii) any person who has been convicted by a criminal court for any offence involving moral turpitude;
- (iv) any person against whom disciplinary proceedings or charges relating to moral turpitude have been initiated by the appropriate disciplinary authority which are pending or have resulted in a punishment;
- (v) any person who is interested or connected with the subject matter of dispute or is related to any one of the parties or to those who represent them, unless such objection is waived by all the parties in writing;
- (vi) any legal practitioner who has or is appearing for any of the parties in the suit or in any other suit or proceedings;
- (vii) such other categories of persons as may be notified by the High Court.

6. Venue for conducting mediation:

The mediator shall conduct the mediation at one or other of the following places:—

- (i) Venue of the Lok Adalat or permanent Lok Adalat.
- (ii) Any place identified by the District Judge within the Court precincts for the purpose of conducting mediation.
- (iii) Any place identified by the Bar Association or State Bar Council for the purpose of mediation, within the premises of the Bar Association or State Bar Council, as the case may be.
- (iv) Any other place as may be agreed upon by the parties subject to the approval of the Court.

7. Preference:

The Court shall, while nominating any person from the panel of mediators referred to in Rule 3, consider his suitability for resolving the particular class of dispute involved in the

suit and shall give preference to those who have proven record of successful mediation or who have special qualification or experience in mediation.

8. Duty of mediator to disclose certain facts:

(a) When a person is approached in connection with his possible appointment as a mediator, the person shall disclose in writing to the parties, any circumstances likely to give rise to a justifiable doubt as to his independence or impartiality.

(b) Every mediator shall, from the time of his appointment and throughout the continuance of the mediation proceedings; without delay, disclose to the parties in writing, about the existence of any of the circumstances referred to in clause (a).

9. Cancellation of appointment:

Upon information furnished by the mediator under Rule 8 or upon any other information received from the parties or other persons, if the Court, in which the suit is filed, is satisfied, after conducting such inquiry as it deems fit, and after giving a hearing to the mediator, that the said information has raised a justifiable doubt as to the mediator's independence or impartiality, it shall cancel the appointment by a reasoned order and replace him by another mediator.

10. Removal or deletion from panel:

A person whose name is placed in the panel referred to in Rule 3 may be removed or his name be deleted from the said panel, by the Court which empanelled him, if:—

- (i) he resigns or withdraws his name from the panel for any reason;
- (ii) he is declared insolvent or is declared of unsound mind;
- (iii) he is a person against whom criminal charges involving moral turpitude are framed by a criminal court and are pending;
- (iv) he is a person who has been convicted by a criminal court for any offence involving moral turpitude;
- (v) he is a person against whom disciplinary proceedings on charges relating to moral turpitude have been initiated by appropriate disciplinary authority which are pending or have resulted in a punishment;
- (vi) he exhibits or displays conduct, during the continuance of the mediation proceedings, which is unbecoming of a mediator;
- (vii) the Court which empanelled, upon a receipt of information, if it is satisfied, after conducting such inquiry as it deem fit, is of the view, that it is not possible or desirable to continue the name of that person in the panel:

Provided that, before removing or deleting his name, under clause (vi) and (vii), the Court shall hear the mediator whose name is proposed to be removed or deleted from the panel and shall pass a reasoned order.

11. Procedure of mediation:

(a) The parties may agree on the procedure to be followed by the mediator in the conduct of the mediation proceedings.

(b) Where the parties do not agree on any particular procedure to be followed by the mediator, the mediator shall follow the procedure hereinafter mentioned, namely:—

- (i) he shall fix, in consultation with the parties, a time schedule, the dates and the time of each mediation session, where all parties have to be present;
- (ii) he shall hold the mediation conference in accordance with the provisions of Rule 6;
- (iii) he may conduct joint or separate meetings with the parties;
- (iv) each party shall, ten days before a session, provide to the mediator a brief memorandum setting forth the issues, which according to it, need to be resolved, and its position in respect to those issues and all information reasonably required for the mediator to understand the issue; such memoranda shall also be mutually exchanged between the parties;
- (v) each party shall furnish to the mediator, copies of pleadings or documents or such other information as may be required by him in connection with the issues to be resolved:

Provided that where the mediator is of the opinion that he should look into any original document, the Court may permit him to look into the original document before such officer of the Court and on such date or time as the Court may fix.

- (vi) each party shall furnish to the mediator such other information as may be required by him in connection with the issues to be resolved.

(c) Where there is more than one mediator, the mediator nominated by each party shall first confer with the party that nominated him and shall thereafter interact with the other mediators, with a view to resolving the disputes.

12. Mediator not bound by Evidence Act, 1872 or Code of Civil Procedure, 1908:

The mediator shall not be bound by the Code of Civil Procedure 1908 or the Evidence Act, 1872, but shall be guided by principles of fairness and justice, have regard to the rights and obligations of the parties, usages of trade, if any, and the nature of the dispute.

13. Non-attendance of parties at sessions or meetings on due dates:

(a) The parties shall be present personally or may be represented by their counsel or power of attorney holders at the meetings or sessions notified by the mediator.

(b) If a party fails to attend a session or a meeting notified by the mediator, other parties or the mediator can apply to the Court in which the suit is filed, to issue appropriate directions to that party to attend before the mediator and if the Court finds that a party is absenting himself before the mediator without sufficient reason, the Court may take action against the said party by imposition of costs.

(c) The parties not resident in India, may be represented by their counsel or power of attorney holders at the sessions or meetings.

14. Administrative assistance:

In order to facilitate the conduct of mediation proceedings, the parties, or the mediator with the consent of the parties, may arrange for administrative assistance by a suitable institution or person.

15. Offer of settlement by parties:

(a) Any party to the suit may, without prejudice, offer a settlement to the other party at any stage of the proceedings, with notice to the mediator.

(b) Any party to the suit may make a, 'with prejudice offer', to the other party at any stage of the proceedings, with notice to the mediator.

16. Role of mediator:

The mediator shall attempt to facilitate voluntary resolution of the dispute by the parties, and communicate the view of each party to the other, assist them in identifying issues, reducing misunderstandings, clarifying priorities, exploring areas of compromise and generating options in an attempt to solve the dispute, emphasizing that it is the responsibility of the parties to take decision which effect them; he shall not impose any terms of settlement on the parties.

17. Parties alone responsible for taking decision:

The parties must understand that the mediator only facilitates in arriving at a decision to resolve disputes and that he will not and cannot impose any settlement nor does the mediator give any warranty that the mediation will result in a settlement. The mediator shall not impose any decision on the parties.

18. Time limit for completion of mediation:

On the expiry of sixty days from the date fixed for the first appearance of the parties before the mediator, the mediation shall stand terminated, unless the Court, which referred the matter, either *suo moto*, or upon request by the mediator or any of the parties, and upon hearing all the parties, is of the view that extension of time is necessary or may be useful; but such extension shall not be beyond a further period of thirty days.

19. Parties to act in good faith:

While no one can be compelled to commit to settle his case in advance of mediation, all parties shall commit to participate in the proceedings in good faith with the intention to settle the dispute, if possible.

20. Confidentiality, disclosure and inadmissibility of information:

(1) When a mediator receives confidential information concerning the dispute from any party, he shall disclose the substance of that information to the other party, if permitted in writing by the first party.

(2) When a party gives information to the mediator subject to a specific condition that it be kept confidential, the mediator shall not disclose that information to the other party, nor shall the mediator voluntarily divulge any information regarding the documents or what is conveyed to him orally as to what transpired during the mediation.

(3) Receipt or perusal, or preparation of records, reports or other documents by the mediator, or receipt of information orally by the mediator while serving in that capacity, shall be confidential and the mediator shall not be compelled to divulge information regarding the documents nor in regard to the oral information nor as to what transpired during the mediation.

(4) Parties shall maintain confidentiality in respect of events that transpired during mediation and shall not rely on or introduce the said information in any other proceedings as to:—

- (a) views expressed by a party in the course of the mediation proceedings;
- (b) documents obtained during the mediation which were expressly required to be treated as confidential or other notes, drafts or information given by parties or mediators;
- (c) proposals made or views expressed by the mediator;
- (d) admission made by a party in the course of mediation proceedings;
- (e) the fact that a party had or had not indicated willingness to accept a proposal;

(5) There shall be no stenographic or audio or video recording of the mediation proceedings.

21. Privacy:

Mediation sessions and meetings are private; only the concerned parties or their counsel or power of attorney holders can attend. Other persons may attend only with the permission of the parties or with the consent of the mediator.

22. Immunity:

No mediator shall be held liable for anything *bona fide* done or omitted to be done by him during the mediation proceedings for civil or criminal action nor shall he be summoned by any party to the suit to appear in a Court of law to testify in regard to information received by him or action taken by him or in respect of drafts or records prepared by him or shown to him during the mediation proceedings.

23. Communication between mediator and the Court:

(a) In order to preserve the confidence of parties in the Court and the neutrality of the mediator, there should be no communication between the mediator and the Court, except as stated in clauses (b) and (c) of this Rule.

(b) If any communication between the mediator and the Court is necessary, it shall be in writing and copies of the same shall be given to the parties or their counsel or power of attorney.

(c) Communication between the mediator and the Court shall be limited to communication by the mediator:

- (i) with the Court about the failure of party to attend;
- (ii) with the Court with the consent of the parties ;
- (iii) regarding his assessment that the case is not suited for settlement through mediation;
- (iv) that the parties have settled the dispute or disputes.

24. Settlement Agreement:

(1) Where an agreement is reached between the parties in regard to all the issues in the suit or some of the issues, the same shall be reduced to writing and signed by the parties or their power of attorney holder. If any counsel have represented the parties, they shall attest the signature of their respective clients.

(2) The agreement of the parties so signed and attested shall be submitted to the mediator who shall, with a covering letter signed by him, forward the same to the Court in which the suit is pending.

(3) Where no agreement is arrived at between the parties, before the time limit stated in Rule 18 or where, the mediator is of the view that no settlement is possible, he shall report the same to the said Court in writing.

25. Court to fix a date for recording settlement and passing decree:

(1) Within seven days of the receipt of any settlement, the Court shall issue notice to the parties fixing a day for recording the settlement, such date not being beyond a further period of fourteen days from the date of receipt of settlement, and the Court shall record the settlement, if it is not collusive.

(2) The Court shall then pass a decree in accordance with the settlement so recorded, if the settlement disposes of all the issues in the suit.

(3) If the settlement disposes of only certain issues arising in the suit, the Court shall record the settlement on the date fixed for recording the settlement and :—

- (i) if the issues are severable from other issues and if a decree could be passed to the extent of the settlement covered by those issues, the Court may pass a decree straightway in accordance with the settlement on those issues without waiting for a decision of the Court on the other issues which are not settled;
- (ii) if the issues are not severable, the Court shall wait for a decision of the Court on the other issues which are not settled.

26. Fee of mediator and costs:

(1) At the time of referring the disputes to mediation, the Court shall, after consulting the mediator and the parties, fix the fee of the mediator.

(2) As far as possible a consolidated sum may be fixed rather than for each session or meeting.

(3) Where there are two mediators as in clause (b) of Rule 2, the Court shall fix the fee payable to the mediators which shall be shared equally by the two sets of parties d/ -

(4) The expense of the mediation including the fee of the mediator, costs of administrative assistance, and other ancillary expenses concerned, shall be borne equally by the various contesting parties or as may be otherwise directed by the Court.

(5) Each party shall bear the costs for production of witnesses on his side including

- Substituted by the Orissa State Legal Services Authority
- (i) Rule - 5 - 8 deleted vide notification no. 525/R dt. 8.7.2011
 - (ii) Rule - 5 inserted vide notification no. 873 dt. 30.9.2011
 - (iii) Rule - 5 substituted vide notification no. 526/R dt. 10.5.2013
- 2489 Br (12) - 3

experts, or for production of documents.

(6) The mediator may, before the commencement of mediation, direct the parties to deposit equal sums, tentatively, to the extent of 40% of the probable costs of the mediation, as referred to in clauses (1), (3) and (4). The remaining 60% shall be deposited with the mediator, after the conclusion of mediation. For the amount of cost paid to the mediator, he shall issue the necessary receipts and a statement of account shall be filed, by the mediator in the Court.

d/ (7) The expense of mediation including fee, if not paid by the parties, the Court shall, on the application of the mediator or parties, direct the concerned parties to pay, and if they do not pay, the Court shall recover the said amounts as if there was a decree for the said amount.

(8) Where a party is entitled to legal aid under Section 12 of the Legal Services Authorities Act, 1987, the amount of fee payable to the mediator and costs shall be paid by the concerned Legal Services Authority under that Act.

27. Ethics to be followed by mediator:

The mediator shall:—

- (1) follow and observe these Rules strictly and with due diligence;
- (2) not carry on any activity or conduct which could reasonably be considered as conduct unbecoming of a mediator;
- (3) uphold the integrity and fairness of the mediation process;
- (4) ensure that the parties involved in the mediation are fairly informed and have an adequate understanding of the procedural aspects of the process;
- (5) satisfy himself/herself that he/she is qualified to undertake and complete the assignment in a professional manner;
- (6) disclose any interest or relationship likely to affect impartiality or which might seek an appearance of partiality or bias;
- (7) avoid, while communicating with the parties, any impropriety or appearance of impropriety;
- (8) be faithful to the relationship of trust and confidentiality imposed in the office of mediator;
- (9) conduct all proceedings related to the resolutions of a dispute, in accordance with the applicable law;
- (10) recognize that mediation is based on principles of self-determination by the parties

and that mediation process relies upon the ability of parties to reach a voluntary, undisclosed agreement;

- (11) maintain the reasonable expectations of the parties as to confidentiality;
- (12) refrain from promises or guarantees of results.

28. Transitory provisions:

Until a panel of mediators is prepared by the High Court or the District Court as provided in Rule 3, the Court concerned may nominate a mediator of its choice if the mediator belongs to the various classes of persons referred to in Rule 4 and is duly qualified and does not suffer from any disqualification.

BY ORDER OF THE HIGH COURT

K. N. PANIGRAHY

Registrar (I. & E.)

ORISSA HIGH COURT, CUTTACK

NOTIFICATION

NO. 526/R DATE. 10.05.2013

In exercise of the rule making power under Part-X of the Code of Civil Procedure, 1908 (Act No.5 of 1908) and clause (d) of Sub-Section (2) of Section 89 of the said Code, the High Court of Orissa do hereby make the following rules for amendment of the Civil Procedure Mediation Rules, 2007, namely:-

1. (a) These Rules shall be called the Civil Procedure Mediation (Amendment) Rules, 2013.
(b) They shall come into force on the date of their publication in the Odisha Gazette.
2. Substitute the following for the existing Sub-rule (5) of Rule-26 of the Civil Procedure Mediation Rules, 2007 inserted vide Court's Notification No.873/R Dtd.30.09.2011.

“(5) The following consolidated amount shall be paid to the mediators towards their honorarium engaged in mediation centres for mediating the cases as specified in the following structure:

Nature of Cases		Honorarium to be paid to the Mediators
1.	<ol style="list-style-type: none">i. Disputes arising out of Civil Suitsii. Suits relating to Business and Commercial disputes,iii. Money Suits,iv. Matrimonial disputes involving Divorce restitution of conjugal life Judicial separation/ Custody of Children/ Dowry/ Disputes under P.W.D.V Act etc.,v. Compoundable Criminal Casesvi. Property disputes involving injunction, possession and partition	<ul style="list-style-type: none">• Rs.2000/- (Successful mediation).• Rs.1000/- (Unsuccessful mediation).• Provided the Mediation is unsuccessful in spite of three sittings.
2.	Matters relating to Motor Accident Claim cases and Maintenance/ Permanent alimony.	<ul style="list-style-type: none">• Rs.1000/- for successful mediation.• Rs.500/- for unsuccessful mediation
3.	Disputes involved under N.I. Act.	<ul style="list-style-type: none">• Rs.500/- for successful Mediation.• No honorarium for unsuccessful cases.
4.	Pre-litigation matter	<ul style="list-style-type: none">• Rs.1000/- for successful mediation, no honorarium for unsuccessful cases.

- ❖ The honorarium shall be paid by the Legal Services Authority from State Grant from the date of Notification of honorarium till separate funds is allotted by the State Government for the purpose or till receiving necessary instructions from the Government that such expenses can be met from TFC Grant.

BY ORDER OF THE HIGH COURT


REGISTRAR GENERAL

ORISSA HIGH COURT, CUTTACK

NOTIFICATION

No. 873/R..... Date 30.9.2011
XI-38/2010

In exercise of the rule making power under Part-X of the Code of Civil Procedure, 1908(Act No. 5 of 1908) and clause (d) of Sub-Section(2) of Section 89 of the said Code, the High Court of Orissa do hereby make the following rules to amend the Civil Procedure Mediation Rules, 2007, namely:-

PART – II

1. (a) These Rules shall be called the Civil Procedure Mediation (Amendment) Rules, 2011.
(b) They shall come into force on the date of their publication in the Orissa Gazette.
2. In the Civil Procedure Mediation Rules, 2007, in rule 26; after sub-rule (4), the following sub rule shall be inserted, namely,-
“(5) A consolidated amount of Rs.2000/- shall be given for successful mediation and a consolidated amount of Rs.1000/- shall be given for unsuccessful mediation to the mediators towards their fee/honorarium engaged in State /District /Taluk mediation centres for the purpose of mediating Court annexed cases, appeals and proceedings.”

BY ORDER OF THE HIGH COURT


REGISTRAR GENERAL

ORISSA HIGH COURT, CUTTACK

NOTIFICATION

No. 525/R Date 08.07.2011

In exercise of the rule making power under Part-X of the Code of Civil Procedure, 1908(Act No.5 of 1908) and Clause (d) of Sub-Section (2) of Section 89 of the said Code, the High Court of Orissa do hereby make the following rules to amend the Civil Procedure Mediation Rules,2007 ,namely:

PART-II

- 1.(a) These Rules shall be called the Civil Procedure Mediation (Amendment) Rules ,2011
- (b) They shall come into force on the date of their publication in the Orissa Gazette
2. In the Civil Procedure Mediation Rules ,2007, in rule 26,-
 - (a) in sub-rule (3) , the words "which shall be shared equally by the two sets of parties" shall be deleted ;
 - (b) in sub-rule (4) , the words "equally by the various contesting parties" appearing therein shall be substituted by the words " by the Orissa State Legal Services Authority"; and
 - (c) sub-rules (5) to (8) shall be deleted.

BY THE ORDER OF THE HIGH COURT


REGISTRAR(VIGILANCE)I/C

Memo No 5007 Date 08.07.2011

Copy forwarded to the Deputy Director,Printing, Stationery & Publications,Orissa, Cuttack-10 for printing of above Notification in the next issue of Orissa Gazette and for submission of 10 copies of the same to the undersigned for information and to place before the Hon'ble Court.


Special Officer(Special Cell)