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THE HIGH COURT OF ORISSA: CUTTACK

NOTIFICATION

The 20th April, 2022

No.811/R.—The following Draft of certain rules further to amend the First Schedule of the Code of Civil Procedure, 1908 (5 of 1908) which the High Court of Orissa after previous approval of the State Government propose to make in exercise of the powers conferred by Section 122 of the said Code is hereby published as required under the said Section for information of all persons likely to be affected thereby and notice is hereby given that the said Draft will be taken into consideration on or after expiry of a period of 30 days from the date of its publication in the *Odisha Gazette*;

Any objection or suggestion which may be received by the Registrar (Vigilance) from any person in respect of the said Draft before expiry of the period specified above shall be considered by the High Court of Orissa.

DRAFT

1. (i) These Rules may be called the Code of Civil Procedure (Odisha Amendment) Rules, 2022.
- (ii) They shall come into force on the date of their publication in the *Odisha Gazette*.

ODISHA AMENDMENT

2. In the First Schedule to the Code of Civil Procedure, 1908,-
 - (a) In Order I, in Rule 10, after sub-rule (2), the following proviso shall be inserted, namely:-

“Provided further that in suits where third party interest emerges in the suit property after examination of the parties under Rule-2 of Order-X or after production of documents under Rule-14 of Order-XI or after

receipt of the local investigation report of the Commissioner under Rule-9 of Order-XXVI, the Court shall add all such necessary or proper parties to the suit so as to avoid multiplicity of proceedings”.

- (b) In Order-II, after Rule-3, the following proviso shall be inserted, namely:-
 “Provided that upon joining of a person as a party to the suit, the Court shall permit the plaintiff to unite in the same suit several causes of action against such party and proceed with the suit”.
- (c) In Order-V, in Rule-9, for sub-rule-(3A), the following sub-rule shall be substituted, namely:-
 “(3A) In lieu of or in addition to the modes as provided under sub-rule (3) of Rule-9, summons may be transmitted by the official electronic mail (E-mail) service of the Court, the official e-mail ID of the addressee and on transmission of the same through e-Mail, the Court shall presume the sufficiency of the service of summons, unless the ‘delivery failure report’ is submitted by the Registry.”
- (d) In Order-X, in Rule-2, in sub-rule-(1) -
 (i) In clause (a), the word ‘and’ occurring at the end shall be omitted;
 (ii) In clause (b), for the punctuation mark ‘.’, the mark and the word “; and ” shall be substituted at the end; and
 (iii) After clause (b), the following clause shall be inserted, namely :-
 “(c) in suits relating to delivery of possession, shall examine the parties to the suit in relation to third party interest in respect of the suit property.”
- (e) In Order XI, after Rule-14, the following Proviso shall be inserted, namely :-
 “Provided that in suits relating to delivery of possession, the Court shall direct the parties to disclose and produce documents, upon oath, which are in possession of the parties including declaration pertaining to third party interest in the properties concerned and the Court may deal with such documents, when produced, in such manner as shall appear just.”
- (f) In Order XXI,-
 (i) In Rule-22, in sub-rule (1), after the existing proviso, the following

proviso shall be inserted, namely:-

“Provided further that the notice shall be transmitted by the official electronic mail (E-mail) service of the Court for which purpose the party concerned shall furnish to the Court the E-mail ID of the addressee on affidavit and on transmission of the same through e-Mail, the Court shall presume the sufficiency of the service of notice, unless the ‘delivery failure report’ is submitted by the Registry.”

- (ii) In Rule-35, after sub-rule (3), the following sub-rule shall be inserted, namely:-

“(4) The executing Court may, on the satisfaction of the fact that it is not possible to execute the decree without police assistance, direct the concerned police station to provide police assistance to such officials who are working towards execution of decree.”

- (iii) In Rule-98, after sub-rule (2), the following sub-rule shall be inserted, namely:-

“(3) In addition to the provisions of Sub-Rule-(2), the Court in appropriate cases, where it finds that the resistance or objection was without a just cause, it shall award compensatory costs to the decree-holder in accordance with section 35-A.”

- (g) In Order XXV, after Rule-1 including the Proviso thereto, the following Rule shall be inserted, namely :-

“1-A. When security for satisfaction of any decree may be required for defendant.- In a suit for payment of money before settlement of issues, the defendant may be required to disclose its assets on oath, to the extent that it is being made liable in the suit and the Court may further, at any stage, in appropriate cases during the pendency of suit, demand security to ensure satisfaction of any decree.”

- (h) In Order XXVI, in Rule-9, for the existing Proviso, the following Provisos shall be substituted, namely :-

“Provided that in cases where the possession is not in dispute and not a question of fact for adjudication before the Court, the Court may appoint Commissioner to assess the accurate description and status of the property:

Provided further that, where the State Government has made Rules as to the persons to whom such commission shall be issued, the Court shall be bound by such rules."

- (i) In Order XL, in Rule 1, in sub-rule (1), in clause (d) after the word and comma "has," and before the words "or such of those powers", the following words shall be inserted, namely :-

"or to monitor the status of the suit property in a suit for delivery of possession for proper adjudication of the matter".

By Order of the Court

A.K. PASCHIMAKABAT
REGISTRAR (VIGILANCE)