CHAPTER VII

RULES FOR MAHARASHTRA, HIGH COURT RULES

The Family Courts (Court) Rules, 1988:- In exercise of the powers conferred by Section 21 of the Family Courts Act 1984 (No. 66 of 1984), and all enabling provisions in that behalf, the Honourable the Chief Justice and Judges hereby make and prescribe the following rules for the Family courts in the State of Maharashtra :- .

THE FAMILY COURTS (COURT) RULES 1988

In exercise of the powers conferred by Section 21 of the Family Act, 1984 (66 of 1984), the High Court of Bombay is pleased to prescribe the following Rules for the Family Courts in the State of Maharashtra.

Short title, commencement and application.- (1) These rules may be called the Family Courts (Court) Rules, 1988.

(2) These Rules shall come into force on .....

(3) These Rules shall apply to the Family Courts established in the State of Maharashtra under Section 3 of the Family Courts Act, 1984.

(4) Definitions.- In these rules, unless the context otherwise requires,-

(a) "Act" means the Family Courts Act, 1984;

(b) "Centre" means a Counselling Centre;

(c) "Court" means the Family court established under Section 3 of the Act;

(d) "Petition" shall include an application under Chapter IX of the Criminal Procedure Code unless the subject matter or context requires otherwise;

(e) "Principal Counsellor" means the principal counsellor appointed by the High Court. Where principal counsellor is not appointed, it shall include counsellor or counsellors as the case may be;

(f) "Family Court Rules " means Rules framed by the Government of Maharashtra in consultation with the High Court under Section 23 read with Sections 5 and 6 of the Family Courts Act, 1984.

Institution of Proceedings and Service

(5) *Institution of Proceedings.-* All proceedings instituted before a Family Court shall be by way of a petition. In respect of applications under Chapter IX of the Criminal Procedure Code, however the provisions of that Code will apply.

(6) *Filing of Petition in duplicate.-* A petition or any other application shall be filed in duplicate. One copy of such petition or application shall be forwarded by the Registrar of the Family court to the Principal Counsellor forthwith.

(7) *Summons to respondent.-* In all matters other than those under the Chapter IX of the Criminal procedure Code the Writ of Summons to appear and answer shall be in form No. 1 as set out in the appendix with such variations as the circumstances of the case may require.

(8) *Name and address of the party or of the Advocate to be stated in every process.*- The name and address of a party or of the advocate appearing for a party shall be stated in every Writ of Summons, Witness Summons, Interim application, Notice, Warrant, and every process of the court issued at the instance of such party or Advocate.

(9) *Summonses, etc. how attested and signed.*- All Writ of Summons, Rules, Orders, Warrants and other mandatory processes shall be sealed with the seal of the court and shall be signed by the Registrar adding thereto, the date of signing.

(10) *Sealing of Summons, rule, decree.*- The seal of the court shall not be affixed to any Writ of Summons, Rule, Order, Warrant, or other mandatory process, unless the same is signed by the Officer of the Court to be called the sealer and unless the name of the party or his Advocate on record is subscribed thereto. The date of the sealing shall be inserted below the signature of the sealer.

(11) *Returnable date of Summons.*- Unless otherwise ordered, the Writ of Summons shall be made returnable three weeks after the date of the filing of the petition, if the respondent resides within the local limits of the Court, and five weeks after the date of the filing of the petition, if the respondent resides outside the said limits. The returnable date shall be fixed on the day of the week fixed for giving directions as provided in Rules 23 and 24.

(12) *Mode of Service of Summons.*- A Writ of Summons shall be served in the manner prescribed in the Code of Civil Procedure save and except in proceedings under Chapter IX of the Criminal Procedure Code where the provisions of that Code will apply.

(13) *Writ of Summons and other process not to be served on Saturdays, Sundays and Holidays.*- No Writ of Summons or other process shall be served on Saturdays, Sundays or on Holidays notified by the Court, except by leave of the Court.

(14) *Service at advocate's office not to be effected after 6 p.m. on week days and 1.30 p.m. on Saturdays.*- No Writ of Summons or other process shall be served at the office of an Advocate after 6 p.m. on week days and 1.30 p.m. on Saturdays.

(15) *Undertaking by advocate to accept service.*- A Writ of Summons need not be served on a respondent personally, if his advocate undertakes in writing to accept service and to file a Vakalatnama. An Advocate filing his Vakalatnama, however, shall not be entitled to appear in court and/or plead his client's case in Court without obtaining the leave of the Court as prescribed under Rule 37.

(16) *Only one writ may be served, when advocate appears for several respondents.*- Where an Advocate undertakes in writing to accept service and to file a Vakalatnama on behalf of more respondents than one, it shall be sufficient to serve only one Writ of Summons on the said advocate on behalf of his clients.

(17) *Copy of petition to be furnished to the respondent.*- Any respondent or his Advocate applying to the petitioner or his Advocate on record for a copy of the petition and exhibits annexed thereto shall be furnished with the same but where several of the respondents are represented by the same advocate, it shall be sufficient to supply one copy of the petition and exhibits to such Advocate.

Provided that if the application is made after the passing of a decree in a petition, such copies need only be furnished to the respondent or his advocate on payment of copying charges.

(18) *Power to direct issue of fresh summons.*- Whenever upon the further amendment of any Writ of Summons the Registrar shall be of opinion that a fresh Writ of Summons should be substituted, he shall direct it to be done and such fresh Writ of Summons shall be prepared by the Petitioner or his Advocate on record and be examined, signed and sealed by the proper officer.

(19) *Proof of service of summons.*- Unless the Court shall otherwise order, the service of a summons to appear and answer shall be proved by the vakalatnama having been filed or when no vakalatnama has been filed, by evidence showing that the summons was served in the manner provided by the Code of Civil Procedure. Such proof shall ordinarily be by the affidavit of the bailiff and (as to such matters as the bailiff cannot speak to of his knowledge) of the person who attended the bailiff for the purpose of identification at the time of service, or of such other person or persons as can speak to the identity of the person served or to other matters necessary to be proved in respect of the service.

(20) *When service through Court.*- When the summons has been served through another court, the Service may be proved by an affidavit of process served sworn before an officer of the court through which the service was effected.

(21) *Substituted service.*- Application for substituted service of the Writ of summons shall be made to the Registrar. The application shall be supported by an affidavit, and in the case of service through another Court, by the affidavit of the Officer who attempted to make the service, and of such other person or persons as may have accompanied him for the purpose of pointing out the party to be served stating when, where and how such service was attempted to be made.

(22) *Dismissal of petition if summons not served within six months.*- If the Writ of Summons is not served within six months from the date of the filing of the petition, the Registrar shall unless good cause is shown, place the petition on board for dismissal. The Registrar shall notify such petitions on his notice board one week before they are placed on the board for dismissal.

Proceedings in Court

(23) *Directions on the returnable date.*- On the returnable date of the summons, the petition shall be placed for directions before a judge of the Family Court to whom this work may be assigned by the Principal Judge of the Family Court.

(24) *Date of giving directions.*- One day in a week shall be designated by the Principal Judge for the giving of such directions

(25) *Presence of Counsellor in Court.*- On the date fixed for giving directions, the Principal Counsellor or such other counsellor designated by him shall attend the court of the judge giving directions.

(26) *Direction to attend counsellor.*- When giving directions, the Judge shall, in consultation with the Principal Counsellor or such other counsellor who may be present in court, direct the parties to attend a specified counsellor for the purpose of counselling.

(27) *Selection of counsellor.*- Such counsellor shall be chosen bearing in mind the convenience of the parties, their special requirements and the area in which the unit of which that counsellor is attached is located.

(28) The procedure before the Counsellor, the powers, functions and duties of counsellors and the protection granted to them in the discharge of their duties

shall be as prescribed in the Family Court Rules, 1987. The reports to be submitted by the counsellors to the Family Court shall also be as prescribed in the said Rules.

Hearing of Petitions in Court

(29) *Filing memorandum in court.*- On the proceedings before the counsellor coming to an end and on the counsellor filing a memorandum in the petition setting out the outcome of the proceedings before him, the Registrar shall call a meeting of the parties to fix a date of hearing of the petition. Intimation of such meeting shall be given to the parties by registered post or personally.

(30) *Meeting before Registrar.*- At the meeting so fixed the Registrar shall fix a date of hearing after consulting both the parties.

(31) *Ascertaining time to be taken in hearing.*- Registrar shall also ascertain from the parties the approximate time to be taken by each party before the court for the hearing of the matter. On the date of hearing the time so ascertained shall be kept free for the disposal of the matter. Such time shall be kept available on the following consecutive working days also if the matter is likely to take more than a day.

(32) *Consequence of absence before the Registrar.*- In the event of any party remaining absent at the meeting called by the Registrar, the Registrar shall fix such date of hearing as he may deem fit, Registrar shall fix a date at least four weeks after the date of the meeting.

(33) *Placing the petition on the board of the Court.*- On the date so fixed by the Registrar the petition shall be placed on the board of the court for hearing and final disposal. The time allotted to the parties shall also be indicated on the board.

(34) *Adjourned role of hearing.*- Any party finding the date fixed by the Registrar unsuitable for any reason may get it altered by the Registrar after notice to the other side not less than two weeks before the scheduled date of hearing.

(35) *Registrar not to alter date.*- The Registrar shall not ordinarily alter the date when the date has been fixed in the presence of both the sides.

(36) *Adjournment by the Court.*- The petition so fixed shall not be adjourned by the Court unless there are exceptional circumstances justifying such adjournment and unless they are such as could not have been foreseen when the date of hearing was fixed before the Registrar. The Court shall record its reasons for adjourning a matter.

(37) *Permission for representation by a lawyer.*- The Court may permit the parties to be represented by a lawyer in Court. Such permission may be granted if the case involves complicated questions of law, of fact, if the court is of the view that the party in person will not be in a position to conduct his or her case adequately or for any other reasons. The reason for granting permission shall be recorded in the order. Permission so granted may be revoked by the Court at any stage of the proceedings, if the Court considers it just and necessary.

(38) *Time for making application.*- An application by a party for being represented by a lawyer in court shall be made by such party to the court after notice to the other side. Such an application shall be made not less than two weeks prior to the date fixed for hearing of the petition.

(39) *Application not to be entertained at the hearing.*- Such an application shall not be entertained after the petition is placed for hearing on the daily board of the Court, unless there are exceptional circumstances justifying such late application.

(40) *Independent legal representation of a minor.*- The Court may appoint a lawyer to represent independently any minor affected by litigation before the Court. The Court may give suitable directions regarding fees to be paid to such a lawyer.

The Court may appoint a lawyer amicus curiae to assist the court in the discharge of its duties.

(41) *Tape-recording of evidence.*- Evidence given before the court shall be tape recorded.

(42) *Memorandum of evidence.*- The Court shall also prepare a memorandum of substance of what the witness deposes as prescribed under Section 15 of the Family Courts Act, 1984.

(43) *Transicript of tape-recorded evidence.*- In the event of any appeal or revision being filed before the High Court, a party may within thirty days thereafter apply to the court for transcription of the tape-recorded evidence. Such transcription shall be supplied to the party concerned on payment of prescribed fees.

(44) *Provisions of Civil Procedure Code and Criminal Procedure Code to apply.*- Save as aforesaid. the provisions of the Code of Civil Procedure or the Code of Criminal Procefure as the case may be. shall apply to the proceedings before the Family Court.

A proceeding before the Family Corrt shall not become invalid by reason only. of non-compliance with any of the procedural requirements prescribed herein.

Interim Applications

(45) *Interim applications.*- All interim applications to the Court shall be separately numbered as 'Interim Application No. ..... In Petition No. .....".

(46) *Interim applications while matter is pending before Counsellor.*- An interim application may be made even while the matter is pending before a Counsellor.

(47) Report *from the Counsellor.*- The Court may ask the counsellor to submit an interim report for the purposes of such an application before deciding an interim application. The Family Court Rules, 1988 relating to reports to be submitted by counsellors, shall *mutatis mutandis* apply to interim reports also.

Guardianship

(48) *Applications for Guardianship.*- All petitions for guardianship other than applications over which the High Court has jurisdiction, shall be filed before the Family Court.

(49) *Contents of application.*- Every petition for guardianship. when it is by a person other than the natural parent or natural guardian of the child shall be accompanied by a Home Study Report of the person asking for such guardianship and his/her spouse, if any, prepared by an approved family welfare agency or a suitable

trained social worker. A list of such agencies and/or persons shall be prepared by the Principal Judge and Principal Counsellor in consultation with the High Court.

(50) *Home Study in respect of application by a foreigner.*- When a petition for guardianship is filed by a foreigner the court may accept a Home Study Report prepared by a recognised family welfare agency of the country where the foreigner resides.

(51) *Contents of petition.*- Every petition for guardianship shall be accompanied by :-

(i) Two recommendations from respectable members of the community.

(ii) A Salary Certificate or statement relating to the annual income of the petitioner and his financial position.

(iii) A Health Certificate of the petitioner and his/her spouse signed by a medical practitioner as also a medical report regarding sterility of the petitioner and/or spouse.

(iv) A Health Certificate of the child proposed to be taken in guardianship signed by a medical practitioner and countersigned by the petitioner.

(v) A Child Study Report of the child proposed to be taken in guardianship together with a photograph of the child. Such report shall be in Form No.3 prescribed in the appendix when the child is institutionalised or court committed. The report shall be countersigned by the petitioner.

(vi) A declaration from the proposed guardian and his/her spouse, if any, expressing their willingness to take the child in guardianship.

(52) *Applications by Foreigners.*- When a petitioner applying for Guardianship is a foreigner, the petition will also be accompanied by:-

(i) Permission from the country where the petitioner resides, for the child to enter the country,

(ii) An undertaking by a recognised family welfare agency of the country concerned to supervise the child in the home of the petitioner until the child is legally adopted.

(53) *Adoption under the law of the country where the foreigner resides.*- In granting a petition of a foreigner for guardianship, the Court shall satisfy itself that the child can be legally adopted by a foreigner under the law of the country where he/she resides.

(54) *Bond.*- The Court may direct a foreign petitioner to give a bond for such amount as it may think proper for the return of the child to India in the case of any difficulty.

(55) *Financial security of the minor.*- While granting a petition for guardianship, the court may pass such orders as it may deem proper for the financial security of the minor.

(56) *Consent of natural mother.*- When the child proposed to be given in guardianship is an abandoned child the Court shall satisfy itself that the consent of the natural mother was taken at the time of abandonment of the child or at any time thereafter to the child's being given in guardianship to another person. The name of

the natural mother or natural father as also the consent letter from natural parent shall be treated as confidential. Consent letter shall be kept in a sealed cover.

(57) *Affidavit of the institution.*- When the child being placed in guardianship is an abandoned child from an institution for abandoned children, the institution shall file an affidavit setting out the circumstances under which the child was abandoned. The affidavit shall also set out whether the institution is agreeable to the child being given in guardianship to the petitioner.

(58) *Attempts for placement in India.*- The Court, in its discretion may not entertain a petition for guardianship by a foreigner unless the court is satisfied that adequate attempts for at least three months of such other period as the court deem fit have first been made to place the child in an Indian Home. For this purpose the Court may ask the petitioner to obtain a no objection letter from a Voluntary Co-ordinating Agency or any other similar organisation working for the placement of children in Indian Homes.

(59) *Application by a related person.*- When the proposed guardian is related to the child, the court may dispense with any of the above provisions.

(60) *Form of order.*- a guardianship order shall be in the form No.2 prescribed in the appendix with such modifications as may be required in each case. A photograph of the child signed by an authorised officer of the court shall be attached to the order.

(61) *Copy to be forwarded to Ministry of Social Welfare.*- A copy of every guardianship order appointing a foreigner as a guardian shall be forwarded to the Ministry of Social Welfare, Government of India and Social Welfare and Cultural Affairs Department,Government of Maharashtra, Mantralaya, Bombay 400 032.

The Court shall have the power to waive the requirements of any of the above rules relating to petitions for guardianship in a suitable case.

In case of a child placed in guardianship the court may, at any time direct a counsellor attached to the court to supervise the placement of the child and submit a Report or Reports thereon to the court in such manner as the Court may deem fit.

APPENDIX

FORM NO. 1

IN THE FAMILY COURT AT BOMBAY

Petition No. of 19

..... Petitioner, versus

To,

..... (Respondent)

Whereas the abovenamed petitioner has instituted a petition against you, as set out in the petition (annexe the petition)

You are hereby required to file in this Court an appearance in person or a vakalatnama with the permission of the Court within 3 weeks from the service of this summons upon you.

And whereas, the suit will be placed for directions on the board of the Judge on the ..... Day of 19

You are hereby summoned to appear before the Judge to answer the petitioner's claim on the said ..... Day of ..... 19 , at ll O'Clock in the forenoon, and

Take notice that on the day before mentioned after hearing parties who appear directions will be given by the Judge as to the date of hearing before a counsellor of the Family Court and other matters concerning the petition, and

Take further notice that if you fail to file your appearance in person or a vakalatnama as directed above, or if you fail to appear before the Judge on the day before mentioned the petition may be ordered to be set down on Board on the same day or any subsequent day as "undefended" and you will be liable to have a decree or order passed against you.

Wintess ..... Principal Judge at Mumbai, aforesaid this ..... day of ....19.

Registrar.
Sealer
The day of.. 19
Petitioner/Advocate for the Petitioner
Address-

FORM NO. 2

IN THE FAMILY COURT AT .....

Petition No. of 19
In the matter of the Guardians and Wards Act, 1890;
And
In the matter of the appointment of guardian of the person of a male/female minor ..... and inmate of petitioner of ..... petitioner.

UPON READING the petition of ..... the petitioner therein, dated .... For the appointment of the petitioner as the legal guardian of male/female minor ..... born on ..... and to adopt the said minor as his son/daughter according to the Laws of ..... and upon hearing ..... in support of the said petition and upon ..... agreeing to comply with the guidelines contained in the Judgment of the Supreme Court of India in Writ Petition (CRL) No. 1171 of 1982 (Laxmi Kant Pandey v. Union of India) AIR 1984 Supreme Court, P. 469 and upon hearing the affidavit of ..... consenting to the appointment of the petitioner as the legal guardian of the said minor and upon considering the representation made by ..... and upon hearing ..... the representative of the said ..... and upon the petitioner ..... hereby giving an undertaking to this Honourable Court to produce the said minor whenever required and further undertaking to communicate the address of the said minor to the authorities of ..... by ..... of every year and further undertaking to take proper care, look after, educate and to bring up the said minor as if she/he was a child of the petitioner and further undertaking to treat the said minor on an equal footing with his natural and/or adopted children, if any, in all matters of maintenance, education and succession and before taking the said minor out of India the petitioner further undertaking to execute a Bond either personally or through his duly constituted attorney in India in favour of the Registrar of this Honourable Court in the sum of Rs. .... to repatriate the said minor to India by air should it become necessary for any reason to do so and further undertaking to adopt the said minor within a period of two years after the arrival of the said minor to his home

according to the laws of ..... and further undertaking to submit to the Honourable Court every three months for the first two years and every six months for the next three years progress report of the said child (along with his/her recent photograph)made or verified as corrected by the organisation which made the Home Study Report herein regarding the said minor's moral and material progress and her adjustment in the petitioner's family with information of the date of arrival of the said minor from India to the petitioner's Home and the true copy of the adoption order with the copies of the said reports to the said .... and further ..... the agency who has submitted the same study report of the petitioner agreeing that in case of disruption of the petitioner's family before adoption the said agency shall take care of the minor and find a suitable alternative placement for it with the approval of the institution whose inmate the minor is and report such alternative placement to the Honourable Court and also to the ....., I do order that the notice under Setion 11 of the Guardians and Wards Act, 1890 be and the same is hereby dispensed with and I do further order that the petitioner .... be and he is hereby appointed guardian without security and without remuneration of the said minor ..... born on ..... whose last photograph duly certified as such ..... and countersigned by an officer of this Honourable Court is attached hereto and marked as Exhibit 'A' and now in the custody and care of the authorities of the said ..... and I do further order that after executing the bond as aforesaid the petitioner ..... be and he is hereby granted leave to remove the said minor from the jurisdiction of this Honourable court and to take him/her away to ..... or wherever he may desire and for that purpose make an application to the passport authorities or any other authorities to take away the said minor out of the jurisdiction of this Honourable Court and I do hereby lastly order that the petitioner herein do pay a sum of Rs. ..... to the said ..... towards their costs of the petition.

Dated this day of 19

(delete whatever is not applicable) Judge

Advocate for the Petitioner

EXHIBIT 'A'

Certified latest photograph of male/female minor ..... born on .....

Registrar,
Family Court

CHILD STUDY FORM

Information on the Child is to be placed in Guardianship

Name of the Child .... Passport Size Photo of the child.
Name of the Institutions .....

Address .....

PART I

1. Name of the Child .....
2. Reference No. as per General Register of the Institution ....
3. Present Age ....
4. Sex .....

5. Religion (If known) .....
6. Date of Birth (If available) .....
7. Place of Birth (If available) .....

PART II

1. Petition No. .....
2. Name of the petitioner .....
3. Complete Address of the petitioner .....

PART III (Legal Data)

(To be filled for Court Committed Children only)

1. Name of the committing court .....
2. Age of the child at the time of commitment .....
3. Date of order of commitment .....
4. Period of commitment .....
5. Final date of release .....
6. Section of the Bombay Children Act .....
7. Date of admission to your institution. Please enclose a copy of the Court Commitment Warrant.

Please enclose a copy of the report of the Probation Officer which he/she has submitted to the juvenile Court at the time of commitment of the child

PART IV (Social Data)

1. How the child came to your institution :-
   (a) admitted directly
   (b) Vacancy was reserved and then got committed.
   (c) Transfer from any other institution and if so which one.
   (d) Any other source.
2. Circumstances under which the child came to the original institution.
3. Reasons for seeking protection in the institution.
4. Information about the relatives
5. * In case if they are alive, have they agreed to give away the child in adoption/guardianship and if so, whether written consent has been obtained.
6. Whether the relatives have established by contacts with the child after his/her admission to your institution.
7. If the child is purely destitute, give factors which will show that :
8. Any other information on which you would like to add.

PART V (Behaviours, Observations)

1. How long the child is with you in your institution ?
2. Attitude towards other inmates.
3. Relationship towards relatives, staff and other adults.
4. Intelligence (if and where possible, I.Q. report should be enclosed)
5. General personality and description of the child.
6. Play activity and any specific talent.
7. Observer's impressions about the child.

Please indicate how the parent plan of rehabilitation will be useful to the child taking into consideration the child's needs and temperament.

9. If the child is school-going give a detailed report about his/her standard, attendance. general interest in studies, progress, defects, if any.

10. Any other information.

PART VI

Physical and Medical report form enclosed.

PART VII

1. Have you reviewed the Home Study Report of the adoptive parents/ Guardians and do you feel that the placement of this child with this family, is suitable ?

2. Have the adoptive parents seen the details of child whom they wish to bring up and have they approved of the child after knowing the general conditions physical or mental defect, etc. If so, please give a copy of the certificate wherein the adoptive parent/guardians have given their consent in writing that they have examined the Child Study Report and accept the proposed child.

Note.- Date of Departure of the child from the country, should be conveyed to the Director of Child Welfare and consulting agency for the purpose of follow up.

PART VIII

I, Shri/Smt. ..... Superintendent ..... hereby certify that the information given in this form about the child is correct.

I also enclose herewith the certificate/attested copies of the following documents :

1. Copy of the Court Warrant.
2. Copy of the report of the Probation Officer.
3. Consent of the parents to give away the child.
4. Consent of the adoptive parents to accept the child.

Signature .....
Name .....
Designation .....

Place :

Date :

(Mah. Govt. Gazette dt. 1.9.1988, Part 4-C, pp.425/438).

MAHRASHTRA STATE GOVERNMENT RULES

Maharashtra Family Courts Rules, 1987.- No. IIMA, 1685/1125(149)-X.- In exercise of the powers conferred by clauses (b), (c) and (e) of sub-section (2) and sub-section (1) of Section 23 read with Sections 5 and 6 of the Family Courts Act, 1984 (66 of 1984), the Government of Maharashtra, after consultation with the High Court, hereby makes the following rules, namely :-

1. *Short title, commencement and application.-*

(i) These rules may be called the Maharashtra Family Courts Rules,1987.

(ii) These rules shall come into force on the 1st day of May, 1987.

(iii) These rules shall apply to the Family Courts established in the State of Maharashtra, under Section 3 of the Family Courts Act, 1984.

2. *Definitions.-* In these rules, unless the context otherwise requires,-

(a) "Act" means the Family Courts Act, 1984;

(b) "Centre" means a Counselling Centre;

THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

NOTIFICATION

No. P. 0102/76- The Honourable the Chief Justice and Judges are pleased to direct that the following amendment be made in the Family Courts Court) Rules, 1988 framed by the High Court under section 21 of the Family Court Act, 1984 :-

PART I

Substitute the following Rule 5(1) and (2) for the existing Rule 5 of the Family Courts (Court) ules, 1988:-

5. Institution of Proceedings:-

(1) All proceedings instituted before a Family Court shall be by way of a Petition. *In respect of applications under Chapter IX of the Criminal Procedure Code, however the provisions of that Code will apply.*

(2) In all the petitions and applications under Chapter IX of the Criminal Procedure Code, where one of the parties claims to be married to the other, the cause title may contain the maiden name as well as the name post marriage, of the parties thereto, if there is a change in the name after marriage.

Provided that where the change in name of a party post marriage, is notified in *the Official Gazette, such party shall be arrayed with the name as notified in the Official Gazette, in addition to the maiden name:*

Provided further that where a wife has not changed her name after marriage by publishing notice in the Official Gazette, she may continue to mention her maiden name.

Provided further that where a wife has not changed her name after marriage by publishing notice in the Official Gazette, she may continue to mention her maiden name.

PART II

Substitute the following Rule 19 (1) and (2) for the existing Rule 19 of the Family Courts (Court) Rules, 1988.

19. Proof of service of summons:- (1) Save in cases provided for in Sub-Rule (2) and unless the Court shall otherwise order, the Service of a Summons to appear and answer shall be proved by the Vakalatnama having been filed or when no Vakalatnama has been filed, by evidence showing that the Summons was served in the manner provided by the Code of Civil Procedure. Such proof shall ordinarily be by the affidavit of the bailiff and (as to such matters as the bailiff cannot speak to of his knowledge) of the person who attended the bailiff for the purpose of identification at the time of

service or of such other person or persons as can speak to the identity of the person served or to other matters necessary to be proved in respect of the service.

(2) In case where the petitioner and respondent reside at one and the same address, in addition to the proof of service as provided by Sub-Rule (1), the Court shall direct the party, desiring to establish proof of service of Writ of Summons, to file an affidavit, precisely indicating the date, time and mode of service of Writ of Summons upon the opponent and the service of Writ of Summons shall not be deemed to have been proved unless such affidavit is filed.

PART III

Add the Sub-Rule (B) and (C) of Rule 44 after the Sub-Rule (A) of Rule 44 of the Family Courts (Court) Rules, 1988.

44. Pronouncement of Judgement/ Final Order :- (B) (1) In all proceedings, on conclusion of hearing, the Court shall inform the parties, the date of pronouncement of judgement and final order.

(2) The Court shall endeavor to pass the judgement/final order, on the date fixed under Sub-Rule (1), in the presence of the parties.

(3) The parties to such proceedings, shall remain present in the Court on the date fixed under Sub-Rule (1) to hear the pronouncement of judgement/final order:

Provided that, this rule shall not apply to the parties who ordinarily reside beyond the territorial limits of India:

Provided further that the Court may in an appropriate case, for sufficient cause, exempt any party from appearance in the Court, to hear the pronouncement of judgement/final order, and shall record reasons for granting such exemption.

44. Copy of divorce decree to be served upon the parties:- (C) In all cases in which, the marriage is dissolved by a decree of divorce, ex-parte or otherwise, the Court shall serve a certified copy of the decree upon the parties to the proceedings, by registered post acknowledgment due, within 15 days from the date of passing of the decree.