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# APPENDIX-12

## THE FAMILY COURTS (GAUHATI HIGH COURT) RULES, 1989*

In exercise of the powers conferred by Section 21 of the Family Courts Act, 1984, the High Court is pleased to make the following Rules, namely:-

**1. Short title, commencement and application** — (1) These Rules may be called the Family Courts (Gauhati High Court) Rules, 1989.

(2) These Rules shall come into force with effect from the date of publication in the official Gazette.

(3) These Rules shall apply to the Family Courts established in the States of Assam, Nagaland, Meghalaya, Manipur, Tripura, Mizoram, and Arunachal Pradesh.

**2. Definition.**— In these Rules, unless the contest otherwise requires-

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

(b) "Court" means the Family Courts established under Section 3 of the Act;

(c) "High Court" means the Gauhati High Court;

(d) "Institution" means any Institution or Organisation engaged in social welfare and registered under the Societies Registration Act, 1860;

(e) All other words and expressions used but not defined in the Act, or in the Family Courts Rules of the respective State Governments under the Jurisdiction of Gauhati High Court or in the Code of Civil Procedure, 1908 or in the Code of Criminal Procedure, 1973 shall have the meanings respectively assigned to them in the Act and the Rules or as the case may be, in the Code of Civil Procedure, 1908 or in the Code of Criminal Procedure, 1973.

**3. Working hours.**— (1) The normal working hours of the Court shall be from 10.30 A.M. to 4.00 P.M. with a recess break from 1.00 P.M. to 1.30 P.M.

(2) The Judge may, for experience, hold proceedings of the Court beyond the working hours as prescribed in Sub-rule (1) above, and even on holidays:

Provided that no such proceedings shall be held under this sub-rule except without the consent of the Counsellors, representatives of the Social Organisations and the parties to the proceedings.

**4. Place of sitting.**—The Judge of the Family Court may sittings at places other than the ordinary place of sitting in consultation held with the Counsellors and the parties to the proceedings;

**5.** The Provisions of the Legal Aid Scheme may be invoked in appropriate cases in the proceedings under the Act.

**6. Institution of Proceedings.**—All proceedings instituted before the Family

**Published by Notification No. VII-5/85/26563/A, dated the 12.10.1989.*



Court will be by way of a petition. However, in respect of applications under Chapter IX of the Criminal Procedure Code the provisions of that Code shall apply.

**7.** The petition or any other application shall be filed in duplicate before an Officer designated by the Court for the purpose who shall deliver a copy of such petition or application to the Counsellor.

**8. Proceeding for summons, etc.**—In all proceedings other than the Act the writ of summons to appear and answer shall be in the appropriate forms prescribed for Civil and Criminal Courts by the High Court with such modifications as may considered necessary and expedient by the Court.

**9.** All writs of summons, Rules, Orders, warrants and other processes shall be signed by the designated officer of the Court and shall bear the seal of the Court.

**10.** A writ of summons shall be served in the manner prescribed in the Code of Civil Procedure, save and expect the proceedings under Chapter IX of the Code of Criminal Procedure where the provisions of that Code will apply.

**11. Counselling.**— On the returnable date of the summons, the Judge shall, on the same day, or, on any subsequent date, in consultation with the Counsellor, direct the parties to the proceeding to attend the Counsellor for the purpose of counselling:

Provided that the Judge, while briefing the Cousellor, shall bear in mind the nature of the dispute, the convenience of the parties, the special requirements of the case in hand and other ancillary matters.

**12.** The Counsellor appointed to counsel the parties shall fix the time and date of appointment. The parties shall be bound to attend the Counsellor on the date and at the time so fixed.

**13.** If either of the parties fails to attend the Counsellor on the date and time so fixed, the Counsellor may fix another date and shall communicate the same to the absentee party by the registered post. In case of default by either of the parties on the adjourned date, the Counsellor shall submit a report to the Court and on receipt of such report, the Court may proceed with the matter in absence of the defaulting party without prejudice to other powers of the Court to take action against the defaulting parties.

**14.** The Counsellor entrusted with any petition, on appearance of the parties before him, shall assist and advise the parties regarding the settlement of the subject matter of dispute and shall endeavour to help the parties in arriving the conciliation.

**15.**(1) The Counsellor may, in discharge of his duties, visit the home of either

of the parties and interview the relatives, friends and acquaintances of either of the parties;

(2) The Counsellor in discharge of his duties, may also seek such information as he deems fit from the employer of either of the parties and such requisition for information shall be made through the Court.

(3) The Counsellor may take the assistance of any organisation, institution or agency in discharge of his duties

**16.** The Counsellor shall submit a report to the Court as and when called for, to assist the Court in deciding the case in hand. The report may, inter alia, contain the following points:-

(a) Living environment of the parties concerned.

(b) Personalities.

(c) Relationship.

(d) Income and standard of living.

(e) Status in society.

(f) Counsellor's opinion and findings.

**17.** The Counsellor may also supervise the child/children if and when called upon by the Court.

**18. Confidentiality of information.**—Information gathered by the Counsellors or any statement made before the Counsellor or any notes or report prepared by the Counsellor shall be treated as confidential and the Counsellor shall not be called upon to disclose such information, statement, notes or report to any Court except with the consent of both the parties.

**19. Signature of settlement.**— When the parties arrive at a settlement before the Counsellor relating to the dispute or any part thereof, such settlement shall be reduced into writing and shall be signed by the parties and countersigned by the Counsellor.

**20.** The Proceedings before the Court shall be heard and disposed of as expeditiously as possible, and preferably within 3 months, and in achieving this objective the Rules or procedure may not rigidly adhered to.

**21. High Court's power to supervises etc.**— For carrying out the purposes of the Act and for ensuring the uniformity of practice to be observed by the Family Courts and for expeditious disposal, the High Court may from time to time, supervise and inspect the Family Courts and issue directions/circulars etc. to the Family Courts.

**22. Periodical returns.**—The Family Courts shall submit to the High Court such periodical returns and statistical information as may be called for from time to time.

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# APPENDIX-13

## THE HINDU MARRIAGE (GAUHATI HIGH COURT) RULES, 1988[1]

(HIGH COURT OF ASSAM, NAGALAND, MEGHALAYA, MANIPUR, TRIPURA, MIZORAM AND ARUNACHAL PRADESH.)

### GAUHATI HIGH COURT RULES TO REGULATE THE PROCEDURE UNDER THE HINDU MARRIAGE ACT, 1955.

Notification No. HC XI-2/83/10376/RC, dated 27.4.1989

In exercise of the powers conferred by Sections 14 and 21 of the Hindu Marriage Act, 1955 (Act No.XXV of 1955) with all its amendments up-to date, the Gauhati High Court (High Court of Assam, Nagaland, Meghalaya, Manipur, Tripura, Mizoram and Arunachal Pradesh) is pleased to make the following Rules for regulating the proceedings under the said Act. These Rules would supersede the previous Rules made by the then High Court of Assam vide Notification No. HC.XI-3/53/1429-RC, dated 9th March, 1956.

**1. Short title.**— These Rules may be called the Hindu Marriage (Gauhati High Court) Rules, 1988[1].

**2. Commencement.**— These Rules shall take effect from the date of their publication in the Assam Gazette.

**3. Definitions.**—Notwithstanding contained anything contrary in the subject or context, in these Rules:

(i) "Act" means the Hindu Marriage Act, 1955 (Central Act No.XXV of 1955) with all its up-to date amendments.

(ii) "Court" means the District Court as mentioned in Section 3(6) of the Act.

(iii) "Code" means the Civil Procedure Code, 1908 as amended from time to time.

(iv) "Section" and "sub-section" means section and sub-section of the Act respectively.

(v) All terms and expressions used in these Rules shall carry the same meaning as assigned to them in the Act.

**4. Petition.**— (i) Every petition under the Act shall be accompanied by either certified extract from Hindu Marriage Register maintained as per Section 8 of the Act where the marriage is registered under the Act, or, in the absence of the same, an affidavit to the effect that the marriage was solemnised between the spouses under the Hindu rites and rituals.

[(ii) Every petition for divorce on either of the grounds mentioned in clauses

*Note 1:* The Nomenclature of the existing the "Hindu Marriage Act Rules, 1988" is modified as The Hindu Marriage (Gauhati High Court) Rules, 1988 vide Notification under Memo No. HC.X1-06/2007/493 dated. 20.06.2008 and wherever the former expression occurs the same would be read as the latter.

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