RULES TO REGULATE PROCEEDINGS FOR CONTEMPT OF SUBORDINATE COURTS AND OF THE HIGH COURT[1]

No. S.R.O. C.20/7S/P.Dis. No. 166/75.—In exercise of the powers conferred on the High Court under Articles 215 and 225, Constitution of India, Sec. 23 of the Contempt of Courts Act, 1971 and all other powers hereunto enabling, the High Court makes the following rules:

1. These Rules shall be called the CONTEMPT OF COURT RULES, HIGH COURT, MADRAS, 1975.

2. These Rules shall come into force from the date of publication in the *Tamil Nadu Government Gazette*.

3. Every case initiated for Contempt of Court under the Contempt of Courts Act, 1971, or under any other law, shall be received by the First Assistant Registrar (Original Side) and registered as a contempt case.

4. Every application for contempt shall be in the form of a petition accompanied by an affidavit specifying details of the contempt alleged together with all the documents in support thereof.

NOTES

A contempt petition is not maintainable without specifying and disclosing the name and description of the alleged contemnor and without making him as a party respondent for the alleged contempt. *R. Muthukrishnan v. Collector of Tiruvallur District,* (2011) 4 MLJ 39 paragraph 10, 11 (DB).

There are four stages in every proceeding before the High Court. *First* presentation, *second* filing, *third* admission and *fourth* final hearing. The first two stages, *viz.*, presentation and filing are matters attended by the Registry while the last two stages *viz.*, admission and final hearing are done by the Court.

The Registry is concerned only with the procedural requirements and the scrutiny of papers presented in any proceeding only to ascertain whether proper stamps are affixed, whether the petition or plaint is in the prescribed form, whether the papers required by the rules to be enclosed are filed, *etc.*. The Registry is certainly bound to see whether the High Court has jurisdiction to entertain the proceeding or whether the proceeding should be presented in some other Court. Once it is found that the High Court has jurisdiction and the Rules relating to the Form and Court-fees are satisfied, the Registry is bound to take the proceeding on file and give a number to it.

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1. Published in the Tamil Nadu Government Gazette, dated 3-9-1975, Part III, Section 2.

The practice in the High Court has always been to place the papers before the concerned judge for orders whenever the Registry has a doubt as to the maintainability or jurisdiction. In the High Court, the Registry does not make any distinction between objection as to jurisdiction and objection as to maintainability on other grounds. *M. Ranka v. Hon'ble Mr. Justice P.S Mishra,* (1994) 2 LW 110 (FB).

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5. (1) Every reference by a subordinate court shall clearly specify the contempt of which the person charged is alleged to be guilty.

(2) Every such reference on receipt in the High Court shall first be dealt with in the Administrative Side and will be placed before the Judge-in-charge of the district in which the subordinate court making the reference is situated, and the Chief Justice for directions to send the papers to the Advocate General for taking appropriate action.

(3) Every application arising out of such reference for alleged Contempt of Subordinate Court shall be posted before a Division Bench for orders as to whether notice shall issue to the alleged contemner.

(4) Notice of such application if ordered by court, requiring the alleged contemner to appear on a day fixed, which shall be not less than four weeks from the date of order or as fixed by the court, shall be sent out for personal service on the alleged contemner.

(5) No process fee shall be collected for service of process.

(6) Every such application shall on the date fixed be posted for hearing before a Division Bench dealing with such applications for the time being.

6. (1) Every application for Contempt of Court committed in respect of Judgment, Decree, Direction, Order, Writ of other Process of the High Court shall be accompanied by two additional sets of all the papers in the case for the record of the Court and the required number of copies for service on the alleged contemner.

[2](2) Every such application shall be posted before the Judge or Judges nominated by the Hon'ble Chief Justice for orders as to whether notice shall issue to the alleged contemnor.

[3](3) Notice of such application, if ordered, requiring the alleged contemner to appear on a date fixed; which shall be not less than four weeks from the date of order, or as fixed by the Court, shall be sent out for personal service on the alleged contemner.

(4) No process fee shall be collected for service of process.

(5) Every such application shall on the date fixed, be posted for hearing before such Judge or Judges as the case may be.

NOTES

The amended Rule 6(2) is valid and legal, and not inconsistent with the provisions of the Constitution or of the Contempt of Courts Act, 1971. *K.S Illangovan v. The High Court of Judicature at Madras,* 2009 SCC OnLine Mad 1483 (DB) (DB).

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2. Substituted by ROC No. 855-A/2000/R.R., published in the T.N. Government Gazette, Extraordinary, dated 20-9-2007, Issue No. 266, Part III, Section 2, Page 22.
3. Rule No. 3 deleted and sub-rules (4) to (6) have been renumbered as (3) to (5).

7. (1) Every application by a person or the Advocate-General for alleged contempt of any Court Subordinate to the High Court or of the High Court shall be accompanied by two additional sets of all the papers in the case for the record of the court and the required number of copies for service on the alleged contemner.

(2) Every such application shall be posted before a Division Bench dealing with such cases, for the time being if the contempt alleged is of a Subordinate Court and before such Bench as the Chief Justice may direct, if the contempt alleged is in respect of the High Court, for orders as to whether notice shall issue to the alleged contemner.

(3) Notice of such application, if ordered by court, requiring the alleged contemner to appear on a day fixed, which shall be not less than four weeks from the date of order or as fixed by the court, shall be sent out for personal service on alleged contemner.

(4) No process fee shall be collected for service of process.

(5) Every such application shall on the date fixed, be posted for hearing before a Division Bench dealing with such cases for the time being.

NOTE

Rule 7.—A contempt petition can never be decided on probabilities. Even if two views are possible, the benefit of the doubt must be given to the contemner. *Advocate General of Tamil Nadu v. M. Karunanidhi*, (2002) 2 MLJ 821, paragraph 8.

The Contempt of Court Act as well as the rules requires the consent of the Advocate General particularly for initiation of criminal contempt. Any deviation from the prescribed rules should not be accepted or condoned lightly and is fatal to the proceedings. *Muthu Karuppan v. Parithi Ilamvazhuthi*, (2011) 5 SCC 496 paragraph 46 (SC); *K.Neelamegam v. Durgamoorthi Revenue Divisional Officer,* 2012 Writ LR 97 paragraph 17.

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8. Where a Judge of the High Court considers that any matter that might have come to his notice in any way requires initiation of proceedings in contempt against any person, the papers relevant thereto together with the direction of the Judge shall be placed before the Chief Justice for consideration as to whether the matter may be forwarded to the Advocate-General.

NOTES

Rule 8 which informs of any matter that might have come to the notice of a judge and wherein he considered it necessary to initiate proceedings in contempt, cannot apply when contempt has been informed of having been committed in the presence and/or hearing of the judge. *Peter Ramesh Kumar, In re* (2014) 1 LW 199 paragraph 7 (FB).

There is a vast difference between the proceedings taken by the High Court under Rule 8 and a contempt petition filed by a party to the proceedings before the court. When a party to the case seeks contempt action against the opposite party he must comply with the statutory requirements as contained in Section 15 of the Contempt of Courts Act. *S. Balamurugan v. Senthil Maran,* (2012) 4 MLJ 697 paragraph 12.

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9. (1) Whenever notice of the application for contempt to the alleged contemner is ordered by the court and the court is satisfied that the person to whom notice is ordered is keeping out of the way to avoid service, or has absconded, the court may Order substituted service and also order his arrest.

(2) If the person in contempt cannot be arrested by reason of his absconding or keeping one of the way to avoid arrest, the court may, upon being satisfied thereof, grant an order for the attachment of the property of the person in contempt, to such amount as the court deems reasonable, which attachment shall be proceeded with in the same manner as upon execution of a decree for money. If, after such attachment, the person in contempt, appears and shows to the satisfaction of the court that he did not abscond, or keep out of the way to avoid arrest, and complies in all respects with the judgment, decree, direction, order, writ or other process of the court or the undertaking given to the court, or shows sufficient cause for his failure to do so, the court shall order the release of the property from attachment upon such terms as to costs, and otherwise, as the court thinks fit.

(3) Every person arrested for contempt shall be brought before the court forthwith, and may be examined orally. If he confesses the contempt committed by him, and submits to the judgment of the court thereon, his submission and confession shall be recorded; and the court may, in its discretion either commit him to jail or accept bail for his appearance before the court, at such time as may be appointed, to receive the judgment of the court for his contempt.

(4) If the person in contempt appears or is brought before the court and fails or refuses without lawful excuse to comply in all respects with the judgment, decree, direction, order, writ or other process of court or undertaking given to the court, the court may commit him to jail for such limited time as the court thinks fit, subject to the provisions of Sec.12 of the Contempt of Courts Act, 1971, unless and until he complies in all respects with the judgment, decree, direction, order, writ or other process of court or the undertaking given to the court in which case he shall be entitled to apply, to the court, for his discharge from imprisonment.

(5) If, at the end of the time limited in the warrant of imprisonment, the person in contempt persists in his disobedience of the judgment, decree, direction, order, writ or other process of court or the undertaking given to the court, his property may be attached in the manner provided for the attachment of property in execution of a decree for money, and the said attachment shall continue until the said person complies with the judgment, decree, direction, order, writ or other process of court or the undertaking given to the court in all things to be immediately performed and gives such security as the court directs for compliance with the other parts of the judgment, decree, direction. order, writ or the process of court or the undertaking given to the court, if any, at the future days and time thereby appointed or until the court orders the property to be released.

(6) At any stage of a suit, appeal, application, petition or any other proceedings, the court may of its own motion direct the attachment of the property of the person alleged to be in contempt.

10. (1) Every appeal filed under the Contempt of Courts Act, 1971, shall be numbered as contempt appeal.

(2) Every such appeal, shall be posted before a Division Bench for orders as to whether notice shall issue to the respondent.

(3) The procedure for regulation of such appeals shall be the same as for appeals under Clause 15 of the Letters Patent.

11. It shall be the duty of the First Assistant Registrar, Original Side, to draw up orders made in respect of contempt matters and to see that fines and costs, if any, imposed are paid and that the orders of court are carried out.

Order XIX of the Rules of the High Court of Judicature at Madras in its Original Jurisdiction, 1956, is repealed.

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