THE COMMERCIAL COURTS ACT, 2015

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THE COMMERCIAL COURTS ACT, 2015

ACT NO. 4 OF 2016

[31*st December*, 2015.]

An Act to provide for the constitution of Commercial Courts, [1][Commercial Appellate Courts,] Commercial Division and Commercial Appellate Division in the High Courts for adjudicating commercial disputes of specified value and matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.—[2][(*1*) This Act may be called the Commercial Courts Act, 2015.]

(*2*) It extends to the whole of India [3]***.

(*3*) It shall be deemed to have come into force on the 23rd day of October, 2015.

2. Definitions.—(*1*) In this Act, unless the context otherwise requires,—

[4][(*a*) "Commercial Appellate Courts" means the Commercial Appellate Courts designated under section 3A;]

[5][(*aa*)] "Commercial Appellate Division" means the Commercial Appellate Division in a High Court constituted under sub-section (*1*) of section 5;

(*b*) "Commercial Court" means the Commercial Court constituted under sub-section (*1*) of section 3;

(*c*) "commercial dispute" means a dispute arising out of—

(*i*) ordinary transactions of merchants, bankers, financiers and traders such as those relating to mercantile documents, including enforcement and interpretation of such documents;

(*ii*) export or import of merchandise or services;

(*iii*) issues relating to admiralty and maritime law;

(*iv*) transactions relating to aircraft, aircraft engines, aircraft equipment and helicopters, including sales, leasing and financing of the same;

(*v*) carriage of goods;

(*vi*) construction and infrastructure contracts, including tenders;

(*vii*) agreements relating to immovable property used exclusively in trade or commerce;

(*viii*) franchising agreements;

(*ix*) distribution and licensing agreements;

(*x*) management and consultancy agreements;

(*xi*) joint venture agreements;

(*xii*) shareholders agreements;

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1. Ins. by Act 28 of 2018, s. 2 (w.e.f. 3-5-2018).
2. Subs. by s. 3, *ibid.,* for sub-section (*1*) (w.e.f. 3-5-2018).
3. The words "except the State of Jammu and Kashmir" omitted by Act 34 of 2019, s. 95 and the Fifth Schedule (w.e.f. 31-10- 2019).
4. Ins. by Act 28 of 2018, s. 4 (w.e.f. 3-5-2018).
5. Clause (*a*) renumbered as clause (*aa*) by s. 4, *ibid.*, (w.e.f. 3-5-2018).

(*xiii*) subscription and investment agreements pertaining to the services industry including outsourcing services and financial services;

(*xiv*) mercantile agency and mercantile usage;

(*xv*) partnership agreements;

(*xvi*) technology development agreements;

(*xvii*) intellectual property rights relating to registered and unregistered trademarks, copyright, patent, design, domain names, geographical indications and semiconductor integrated circuits;

(*xviii*) agreements for sale of goods or provision of services;

(*xix*) exploitation of oil and gas reserves or other natural resources including electromagnetic spectrum;

(*xx*) insurance and re-insurance;

(*xxi*) contracts of agency relating to any of the above; and

(*xxii*) such other commercial disputes as may be notified by the Central Government.

Explanation.—A commercial dispute shall not cease to be a commercial dispute merely because—

(*a*) it also involves action for recovery of immovable property or for realisation of monies out of immovable property given as security or involves any other relief pertaining to immovable property;

(*b*) one of the contracting parties is the State or any of its agencies or instrumentalities, or a private body carrying out public functions;

(*d*) "Commercial Division" means the Commercial Division in a High Court constituted under sub-section (*1*) of section 4;

(*e*) "District Judge" shall have the same meaning as assigned to it in clause (a) of article 236 of the Constitution of India;

(*f*) "document" means any matter expressed or described upon any substance by means of letters, figures or marks, or electronic means, or by more than one of those means, intended to be used, or which may be used, for the purpose of recording that matter;

(*g*) "notification" means a notification published in the Official Gazette and the expression "notify" with its cognate meanings and grammatical variations shall be construed accordingly;

(*h*) "Schedule" means the Schedule appended to the Act; and

(*i*) "Specified Value", in relation to a commercial dispute, shall mean the value of the subject-matter in respect of a suit as determined in accordance with section 12 [1][which shall not be less than three lakh rupees] or such higher value, as may be notified by the Central Government.

(*2*) The words and expressions used and not defined in this Act but defined in the Code of Civil Procedure, 1908 (5 of 1908) and the Indian Evidence Act, 1872 (1 of 1872), shall have the same meanings respectively assigned to them in that Code and the Act.

1. Subs. by Act 28 of 2018, s. 4, for " which shall not be less than one crore rupees" (w.e.f. 3-5-2018).

CHAPTER II

[1][COMMERCIAL COURTS, COMMERCIAL APPELLATE COURTS, COMMERCIAL DIVISIONS AND COMMERCIAL APPELLATE DIVISIONS].

3. Constitution of Commercial Courts.—(*1*) The State Government, may after consultation with the concerned High Court, by notification, constitute such number of Commercial Courts at District level, as it may deem necessary for the purpose of exercising the jurisdiction and powers conferred on those Courts under this Act:

[2][Provided that with respect to the High Courts having ordinary original civil jurisdiction, the State Government may, after consultation with the concerned High Court, by notification, constitute Commercial Courts at the District Judge level:

Provided further that with respect to a territory over which the High Courts have ordinary original civil jurisdiction, the State Government may, by notification, specify such pecuniary value which shall not be less than three lakh rupees and not more than the pecuniary jurisdiction exercisable by the District Courts, as it may consider necessary.]

[3][(*1A*) Notwithstanding anything contained in this Act, the State Government may, after consultation with the concerned High Court, by notification, specify such pecuniary value which shall not be less than three lakh rupees or such higher value, for whole or part of the State, as it may consider necessary.]

(*2*) The State Government shall, after consultation with the concerned High Court specify, by notification, the local limits of the area to which the jurisdiction of a Commercial Court shall extend and may, from time to time, increase, reduce or alter such limits.

(*3*) The [4][State Government may], with the concurrence of the Chief Justice of the High Court appoint one or more persons having experience in dealing with commercial disputes to be the Judge or Judges, of a [5][Commercial Court either at the level of District Judge or a court below the level of a District Judge].

[6][**3A. Designation of Commercial Appellate Courts**.—Except the territories over which the High Courts have ordinary original civil jurisdiction, the State Government may, after consultation with the concerned High Court, by notification, designate such number of Commercial Appellate Courts at District Judge level, as it may deem necessary, for the purposes of exercising the jurisdiction and powers conferred on those Courts under this Act.]

4. Constitution of Commercial Division of High Court.—(*1*) In all High Courts, having [7][ordinary original civil jurisdiction], the Chief Justice of the High Court may, by order, constitute Commercial Division having one or more Benches consisting of a single Judge for the purpose of exercising the jurisdiction and powers conferred on it under this Act.

(*2*) The Chief Justice of the High Court shall nominate such Judges of the High Court who have experience in dealing with commercial disputes to be Judges of the Commercial Division.

5. Constitution of Commercial Appellate Division.—(*1*) After issuing notification under sub-section (*1*) of section 3 or order under sub-section (*1*) of section 4, the Chief Justice of the concerned High Court shall, by order, constitute Commercial Appellate Division having one or more Division Benches for the purpose of exercising the jurisdiction and powers conferred on it by the Act.

(*2*) The Chief Justice of the High Court shall nominate such Judges of the High Court who have experience in dealing with commercial disputes to be Judges of the Commercial Appellate Division.

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1. Subs. by Act 28 of 2018, s. 5, for "CONSTITUTION OF COMMERCIAL COURTS, COMMERCIAL DIVISIONS AND COMMERCIAL APPELLATE DIVISIONS" (w.e.f. 3-5-2018).
2. The proviso subs. by s. 6, *ibid.,* (w.e.f. 3-5-2018).
3. Ins. by s. 6, *ibid.,* (w.e.f. 3-5-2018).
4. Subs. by s. 6, *ibid.,* for "State Government shall" (w.e.f. 3-5-2018).
5. Subs. by s. 6, *ibid*., for "Commercial Court, from amongst the cadre of Higher Judicial Service in the State" (w.e.f. 3-5-2018).
6. Ins. by s. 7, *ibid.,* (w.e.f. 3-5-2018).
7. Subs. by s. 8, *ibid.,* for "ordinary civil jurisdiction" (w.e.f. 3-5-2018).

6. Jurisdiction of Commercial Court.—The Commercial Court shall have jurisdiction to try all suits and applications relating to a commercial dispute of a Specified Value arising out of the entire territory of the State over which it has been vested territorial jurisdiction.

Explanation.—For the purposes of this section, a commercial dispute shall be considered to arise out of the entire territory of the State over which a Commercial Court has been vested jurisdiction, if the suit or application relating to such commercial dispute has been instituted as per the provisions of sections 16 to 20 of the Code of Civil Procedure, 1908 (5 of 1908).

7. Jurisdiction of Commercial Divisions of High Courts.—All suits and applications relating to commercial disputes of a Specified Value filed in a High Court having ordinary original civil jurisdiction shall be heard and disposed of by the Commercial Division of that High Court:

Provided that all suits and applications relating to commercial disputes, stipulated by an Act to lie in a court not inferior to a District Court, and filed or pending on the original side of the High Court, shall be heard and disposed of by the Commercial Division of the High Court:

Provided further that all suits and applications transferred to the High Court by virtue of sub-section (*4*) of section 22 of the Designs Act, 2000 (16 of 2000) or section 104 of the Patents Act, 1970 (39 of 1970) shall be heard and disposed of by the Commercial Division of the High Court in all the areas over which the High Court exercises ordinary original civil jurisdiction.

8. Bar against revision application or petition against an interlocutory order.—Notwithstanding anything contained in any other law for the time being in force, no civil revision application or petition shall be entertained against any interlocutory order of a Commercial Court, including an order on the issue of jurisdiction, and any such challenge, subject to the provisions of section 13, shall be raised only in an appeal against the decree of the Commercial Court.

9. [*Transfer of suit if counterclaim in a commercial dispute is of Specified Value***].**— *Omitted by The Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts (Amendment) Act,* 2018 *(*28 *of* 2018*), s. 9* (*w.e.f.* 3-5-2018).

10. Jurisdiction in respect of arbitration matters.—Where the subject-matter of an arbitration is a commercial dispute of a Specified Value and—

(*1*) If such arbitration is an international commercial arbitration, all applications or appeals arising out of such arbitration under the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) that have been filed in a High Court, shall be heard and disposed of by the Commercial Division where such Commercial Division has been constituted in such High Court.

(*2*) If such arbitration is other than an international commercial arbitration, all applications or appeals arising out of such arbitration under the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) that have been filed on the original side of the High Court, shall be heard and disposed of by the Commercial Division where such Commercial Division has been constituted in such High Court.

(*3*) If such arbitration is other than an international commercial arbitration, all applications or appeals arising out of such arbitration under the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) that would ordinarily lie before any principal civil court of original jurisdiction in a district (not being a High Court) shall be filed in, and heard and disposed of by the Commercial Court exercising territorial jurisdiction over such arbitration where such Commercial Court has been constituted.

11. Bar of jurisdiction of Commercial Courts and Commercial Divisions.—Notwithstanding anything contained in this Act, a Commercial Court or a Commercial Division shall not entertain or decide any suit, application or proceedings relating to any commercial dispute in respect of which the jurisdiction of the civil court is either expressly or impliedly barred under any other law for the time being in force.

CHAPTER III

SPECIFIED VALUE

12. Determination of Specified Value.—(*1*) The Specified Value of the subject-matter of the commercial dispute in a suit, appeal or application shall be determined in the following manner:—

(*a*) where the relief sought in a suit or application is for recovery of money, the money sought to be recovered in the suit or application inclusive of interest, if any, computed up to the date of filing of the suit or application, as the case may be, shall be taken into account for determining such Specified Value;

(*b*) where the relief sought in a suit, appeal or application relates to movable property or to a right therein, the market value of the movable property as on the date of filing of the suit, appeal or application, as the case may be, shall be taken into account for determining such Specified Value;

(*c*) where the relief sought in a suit, appeal or application relates to immovable property or to a right therein, the market value of the immovable property, as on the date of filing of the suit, appeal or application, as the case may be, shall be taken into account for determining Specified Value; [1][and]

(*d*) where the relief sought in a suit, appeal or application relates to any other intangible right, the market value of the said rights as estimated by the plaintiff shall be taken into account for determining Specified Value; [2]***

[3]* * * * *

(*2*) The aggregate value of the claim and counterclaim, if any as set out in the statement of claim and the counterclaim, if any, in an arbitration of a commercial dispute shall be the basis for determining whether such arbitration is subject to the jurisdiction of a Commercial Division, Commercial Appellate Division or Commercial Court, as the case may be.

(*3*) No appeal or civil revision application under section 115 of the Code of Civil Procedure, 1908 (5 of 1908), as the case may be, shall lie from an order of a Commercial Division or Commercial Court finding that it has jurisdiction to hear a commercial dispute under this Act.

[4][CHAPTER IIIA

PRE-INSTITUTION MEDIATION AND SETTLEMENT

12A. Pre-Institution Mediation and Settlement—(*1*) A suit, which does not contemplate any urgent interim relief under this Act, shall not be instituted unless the plaintiff exhausts the remedy of pre-institution mediation in accordance with such manner and procedure as may be prescribed by rules made by the Central Government.

(*2*) The Central Government may, by notification, authorise the Authorities constituted under the Legal Services Authorities Act, 1987 (39 of 1987), for the purposes of pre-institution mediation.

(*3*) Notwithstanding anything contained in the Legal Services Authorities Act, 1987, the Authority authorised by the Central Government under sub-section (*2*) shall complete the process of mediation within a period of three months from the date of application made by the plaintiff under sub-section (*1*):

Provided that the period of mediation may be extended for a further period of two months with the consent of the parties:

Provided further that, the period during which the parties remained occupied with the pre-institution mediation, such period shall not be computed for the purpose of limitation under the Limitation Act, 1963 (36 of 1963).

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1. Ins. by Act 28 of 2018, s. 10 (w.e.f. 3-5-2018).
2. The word "and" omitted by s. 10, *ibid.,* (w.e.f. 3-5-2018).
3. Clause (*e*) omitted by s. 10, *ibid.,* (w.e.f. 3-5-2018).
4. Ins. by s. 11, *ibid.,* (w.e.f. 3-5-2018).

(*4*) If the parties to the commercial dispute arrive at a settlement, the same shall be reduced into writing and shall be signed by the parties to the dispute and the mediator.

(*5*) The settlement arrived at under this section shall have the same status and effect as if it is an arbitral award on agreed terms under sub-section (*4*) of section 30 of the Arbitration and Conciliation Act, 1996 (26 of 1996).]

CHAPTER IV

APPEALS

13. Appeals from decrees of Commercial Courts and Commercial Divisions.—(*1*) [1][Any person aggrieved by the judgment or order of a Commercial Court below the level of a District Judge may appeal to the Commercial Appellate Court within a period of sixty days from the date of judgment or order.

(*1A*) Any person aggrieved by the judgment or order of a Commercial Court at the level of District Judge exercising original civil jurisdiction or, as the case may be, Commercial Division of a High Court may appeal to the Commercial Appellate Division of that High Court within a period of sixty days from the date of the judgment or order:

Provided that an appeal shall lie from such orders passed by a Commercial Division or a Commercial Court that are specifically enumerated under Order XLIII of the Code of Civil Procedure, 1908 (5 of 1908) as amended by this Act and section 37 of the Arbitration and Conciliation Act, 1996 (26 of 1996).]

(*2*) Notwithstanding anything contained in any other law for the time being in force or Letters Patent of a High Court, no appeal shall lie from any order or decree of a Commercial Division or Commercial Court otherwise than in accordance with the provisions of this Act.

14. Expeditious disposal of appeals.—The [2][Commercial Appellate Court and the Commercial Appellate Division] shall endeavour to dispose of appeals filed before it within a period of six months from the date of filing of such appeal.

CHAPTER V

TRANSFER OF PENDING SUITS

15. Transfer of pending cases.—(*1*) All suits and applications, including applications under the Arbitration and Conciliation Act, 1996 (26 of 1996), relating to a commercial dispute of a Specified Value pending in a High Court where a Commercial Division has been constituted, shall be transferred to the Commercial Division.

(*2*) All suits and applications, including applications under the Arbitration and Conciliation Act, 1996 (26 of 1996), relating to a commercial dispute of a Specified Value pending in any civil court in any district or area in respect of which a Commercial Court has been constituted, shall be transferred to such Commercial Court:

Provided that no suit or application where the final judgment has been reserved by the Court prior to the constitution of the Commercial Division or the Commercial Court shall be transferred either under sub-section (*1*) or sub-section (*2*).

(*3*) Where any suit or application, including an application under the Arbitration and Conciliation Act, 1996 (26 of 1996), relating to a commercial dispute of Specified Value shall stand transferred to the Commercial Division or Commercial Court under sub-section (*1*) or sub-section (*2*), the provisions of this Act shall apply to those procedures that were not complete at the time of transfer.

(*4*) The Commercial Division or Commercial Court, as the case may be, may hold case management hearings in respect of such transferred suit or application in order to prescribe new timelines or issue such further directions as may be necessary for a speedy and efficacious disposal of such suit or application in accordance [3][with Order XV-A] of the Code of Civil Procedure, 1908 (5 of 1908):

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1. Subs. by Act 28 of 2018, s. 12, for sub-section (*1*) (w.e.f. 3-5-2018).
2. Subs. by s. 13, *ibid.*, for "Commercial Appellate Division" (w.e.f. 3-5-2018).
3. Subs. by s. 14, *ibid.*, for "with Order XIV-A" (w.e.f. 3-5-2018)

Provided that the proviso to sub-rule (*1*) of Rule 1 of Order V of the Code of Civil Procedure, 1908 (5 of 1908) shall not apply to such transferred suit or application and the court may, in its discretion, prescribe a new time period within which the written statement shall be filed.

(*5*) In the event that such suit or application is not transferred in the manner specified in sub-section (*1*), sub-section (*2*) or sub-section (*3*), the Commercial Appellate Division of the High Court may, on the application of any of the parties to the suit, withdraw such suit or application from the court before which it is pending and transfer the same for trial or disposal to the Commercial Division or Commercial Court, as the case may be, having territorial jurisdiction over such suit, and such order of transfer shall be final and binding.

CHAPTER VI

AMENDMENTS TO THE PROVISIONS OF THE CODE OF CIVIL PROCEDURE, 1908

16. Amendments to the Code of Civil Procedure, 1908 in its application to commercial disputes.—(*1*) The provisions of the Code of Civil Procedure, 1908 (5 of 1908) shall, in their application to any suit in respect of a commercial dispute of a Specified Value, stand amended in the manner as specified in the Schedule.

(*2*) The Commercial Division and Commercial Court shall follow the provisions of the Code of Civil Procedure, 1908 (5 of 1908), as amended by this Act, in the trial of a suit in respect of a commercial dispute of a Specified Value.

(*3*) Where any provision of any Rule of the jurisdictional High Court or any amendment to the Code of Civil Procedure, 1908 (5 of 1908), by the State Government is in conflict with the provisions of the Code of Civil Procedure, 1908 (5 of 1908), as amended by this Act, the provisions of the Code of Civil Procedure as amended by this Act shall prevail.

CHAPTER VII

MISCELLANEOUS

17. Collection and disclosure of data by [1][Commercial Courts, Commercial Appellate Courts], Commercial Divisions and Commercial Appellate Divisions.—The statistical data regarding the number of suits, applications, appeals or writ petitions filed before the [1][Commercial Courts, Commercial Appellate Courts], Commercial Division, or Commercial Appellate Division, as the case may be, the pendency of such cases, the status of each case, and the number of cases disposed of, shall be maintained and updated every month by each [1][Commercial Courts, Commercial Appellate Courts], Commercial Division, Commercial Appellate Division and shall be published on the website of the relevant High Court.

18. Power of High Court to issue directions.—The High Court may, by notification, issue practice directions to supplement the provisions of Chapter II of this Act or the Code of Civil Procedure, 1908 (5 of 1908) insofar as such provisions apply to the hearing of commercial disputes of a Specified Value.

19. Infrastructure facilities.—The State Government shall provide necessary infrastructure to facilitate the working of a Commercial Court or a Commercial Division of a High Court.

20. Training and continuous education.—The State Government may, in consultation with the High Court, establish necessary facilities providing for training of Judges who may be appointed to the [2][Commercial Courts, Commercial Appellate Courts], Commercial Division or the Commercial Appellate Division in a High Court.

21. Act to have overriding effect.—Save as otherwise provided, the provisions of this Act shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law for the time being in force other than this Act.

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1. Subs. by Act 28 of 2018, s. 15, for "Commercial Court" and "Commercial Courts" (w.e.f. 3-5-2018).
2. Subs. by s. 16, *ibid.,* for "Commercial Court" (w.e.f. 3-5-2018).

[1][**21A. Power of Central Government to make rules.**—(*1*) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for or any of the following matters, namely:—

(*a*) the manner and procedure of pre-institution mediation under sub-section (*1*) of section 12A;

(*b*) any other matter which is required to be, or may be, prescribed or in respect of which provision is to be made by rules made by the Central Government.

(*3*) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session, or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule, or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

22. Power to remove difficulties.—(*1*) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act as may appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made under this section after the expiry of a period of two years from the date of commencement of this Act.

(*2*) Every order made under this section shall be laid, as soon as may be, after it is made, before each House of Parliament.

23. Repeal and savings.—(*1*) The Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Ordinance, 2015 (Ord. 8 of 2015) is hereby repealed.

(*2*) Notwithstanding such repeal, anything done or any action taken under the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of this Act.

1. Ins. by Act 28 of 2018, s. 17 (w.e.f. 3-5-2018).

SCHEDULE

(*See* section 16)

1. Amendment of section 26.—In section 26 of the Code of Civil Procedure, 1908 (5 of 1908) (hereafter referred to as the Code), in sub-section (*2*), the following proviso shall be inserted, namely:—

"Provided that such an affidavit shall be in the form and manner as prescribed under Order VI of Rule 15A.".

2. Substitution of new section for section 35.—For section 35 of the Code, the following section shall be substituted, namely:—

'**35. Costs.**—(*1*) In relation to any commercial dispute, the Court, notwithstanding anything contained in any other law for the time being in force or Rule, has the discretion to determine:

(*a*) whether costs are payable by one party to another;

(*b*) the quantum of those costs; and

(*c*) when they are to be paid.

Explanation.—For the purpose of clause (*a*), the expression "costs" shall mean reasonable costs relating to—

(*i*) the fees and expenses of the witnesses incurred;

(*ii*) legal fees and expenses incurred;

(*iii*) any other expenses incurred in connection with the proceedings.

(*2*) If the Court decides to make an order for payment of costs, the general rule is that the unsuccessful party shall be ordered to pay the costs of the successful party:

Provided that the Court may make an order deviating from the general rule for reasons to be recorded in writing.

Illustration

The Plaintiff, in his suit, seeks a money decree for breach of contract, and damages. The Court holds that the Plaintiff is entitled to the money decree. However, it returns a finding that the claim for damages is frivolous and vexatious.

In such circumstances the Court may impose costs on the Plaintiff, despite the Plaintiff being the successful party, for having raised frivolous claims for damages.

(*3*) In making an order for the payment of costs, the Court shall have regard to the following circumstances, including—

(*a*) the conduct of the parties;

(*b*) whether a party has succeeded on part of its case, even if that party has not been wholly successful;

(*c*) whether the party had made a frivolous counterclaim leading to delay in the disposal of the case;

(*d*) whether any reasonable offer to settle is made by a party and unreasonably refused by the other party; and

(*e*) whether the party had made a frivolous claim and instituted a vexatious proceeding wasting the time of the Court.

(*4*) The orders which the Court may make under this provision include an order that a party must pay—

(*a*) a proportion of another party's costs;

(*b*) a stated amount in respect of another party's costs;

(*c*) costs from or until a certain date;

(*d*) costs incurred before proceedings have begun;

(*e*) costs relating to particular steps taken in the proceedings;

(*f*) costs relating to a distinct part of the proceedings; and

(*g*) interest on costs from or until a certain date.'.

3. Amendment of section 35A.—In section 35A of the Code, sub-section (*2*) shall be omitted.

4. Amendment of First Schedule.—In the First Schedule to the Code,—

(*A*) in the Order V, in Rule 1, in sub-rule (*1*), for the second proviso, the following proviso shall be substituted, namely:—

"Provided further that where the defendant fails to file the written statement within the said period of thirty days, he shall be allowed to file the written statement on such other day, as may be specified by the Court, for reasons to be recorded in writing and on payment of such costs as the Court deems fit, but which shall not be later than one hundred twenty days from the date of service of summons and on expiry of one hundred twenty days from the date of service of summons, the defendant shall forfeit the right to file the written statement and the Court shall not allow the written statement to be taken on record.";

(*B*) in Order VI,—

(*i*) after Rule 3, the following Rule shall be inserted, namely:—

"3A. Forms of pleading in Commercial Courts—In a commercial dispute, where forms of pleadings have been prescribed under the High Court Rules or Practice Directions made for the purposes of such commercial disputes, pleadings shall be in such forms.";

(*ii*) after Rule 15, the following Rule shall be inserted, namely:—

''15A. Verification of pleadings in a commercial dispute.—

(*1*) Notwithstanding anything contained in Rule 15, every pleading in a commercial dispute shall be verified by an affidavit in the manner and form prescribed in the Appendix to this Schedule.

(*2*) An affidavit under sub-rule (*1*) above shall be signed by the party or by one of the parties to the proceedings, or by any other person on behalf of such party or parties who is proved to the satisfaction of the Court to be acquainted with the facts of the case and who is duly authorised by such party or parties.

(*3*) Where a pleading is amended, the amendments must be verified in the form and manner referred to in sub-rule (*1*) unless the Court orders otherwise.

(*4*) Where a pleading is not verified in the manner provided under sub-rule (*1*), the party shall not be permitted to rely on such pleading as evidence or any of the matters set out therein.

(*5*) The Court may strike out a pleading which is not verified by a Statement of Truth, namely, the affidavit set out in the Appendix to this Schedule.";

(*C*) in Order VII, after Rule 2, the following Rule shall be inserted, namely:—

"2A. Where interest is sought in the suit,—

(*1*) Where the plaintiff seeks interest, the plaint shall contain a statement to that effect along with the details set out under sub-rules (*2*) and (*3*).

(*2*) Where the plaintiff seeks interest, the plaint shall state whether the plaintiff is seeking interest in relation to a commercial transaction within the meaning of section 34 of the Code of Civil Procedure, 1908 (5 of 1908) and, furthermore, if the plaintiff is doing so under the terms of a contract or under an Act, in which case the Act is to be specified in the plaint; or on some other basis and shall state the basis of that.

(*3*) Pleadings shall also state—

(*a*) the rate at which interest is claimed;

(*b*) the date from which it is claimed;

(*c*) the date to which it is calculated;

(*d*) the total amount of interest claimed to the date of calculation; and

(*e*) the daily rate at which interest accrues after that date.";

(*D*) in Order VIII,—

(*i*) in Rule 1, for the proviso, the following proviso shall be substituted, namely:—

"Provided that where the defendant fails to file the written statement within the said period of thirty days, he shall be allowed to file the written statement on such other day, as may be specified by the Court, for reasons to be recorded in writing and on payment of such costs as the Court deems fit, but which shall not be later than one hundred twenty days from the date of service of summons and on expiry of one hundred twenty days from the date of service of summons, the defendant shall forfeit the right to file the written statement and the Court shall not allow the written statement to be taken on record.";

(*ii*) after Rule 3, the following Rule shall be inserted, namely:—

"3A. Denial by the defendant in suits before the Commercial Division of the High Court or the Commercial Court—

(*1*) Denial shall be in the manner provided in sub-rules (2), (3), (4) and (5) of this Rule.

(*2*) The defendant in his written statement shall state which of the allegations in the particulars of plaint he denies, which allegations he is unable to admit or deny, but which he requires the plaintiff to prove, and which allegations he admits.

(*3*) Where the defendant denies an allegation of fact in a plaint, he must state his reasons for doing so and if he intends to put forward a different version of events from that given by the plaintiff, he must state his own version.

(*4*) If the defendant disputes the jurisdiction of the Court he must state the reasons for doing so, and if he is able, give his own statement as to which Court ought to have jurisdiction.

(*5*) If the defendant disputes the plaintiff's valuation of the suit, he must state his reasons for doing so, and if he is able, give his own statement of the value of the suit.";

(*iii*) in Rule 5, in sub-rule (*1*), after the first proviso, the following proviso shall be inserted, namely:—

''Provided further that every allegation of fact in the plaint, if not denied in the manner provided under Rule 3A of this Order, shall be taken to be admitted except as against a person under disability.";

(*iv*) in Rule 10, [1]***, the following proviso shall be inserted, namely:—

1. The words "after the first proviso" omitted by Act 28 of 2018, s. 18 (w.e.f. 3-5-2018).

"[1][Provided that] no Court shall make an order to extend the time provided under Rule 1 of this Order for filing of the written statement.";

(*E*) for Order XI of the Code, the following Order shall be substituted, namely:—

"ORDER XI

DISCLOSURE, DISCOVERY AND INSPECTION OF DOCUMENTS IN SUITS BEFORE THE COMMERCIAL DIVISION OF A HIGH COURT OR A COMMERCIAL COURT

1. Disclosure and discovery of documents.—(*1*) Plaintiff shall file a list of all documents and photocopies of all documents, in its power, possession, control or custody, pertaining to the suit, along with the plaint, including:—

(*a*) documents referred to and relied on by the plaintiff in the plaint;

(*b*) documents relating to any matter in question in the proceedings, in the power, possession, control or custody of the plaintiff, as on the date of filing the plaint, irrespective of whether the same is in support of or adverse to the plaintiff's case;

(*c*) nothing in this Rule shall apply to documents produced by plaintiffs and relevant only—

(*i*) for the cross-examination of the defendant's witnesses, or

(*ii*) in answer to any case set up by the defendant subsequent to the filing of the plaint, or

(*iii*) handed over to a witness merely to refresh his memory.

(*2*) The list of documents filed with the plaint shall specify whether the documents in the power, possession, control or custody of the plaintiff are originals, office copies or photocopies and the list shall also set out in brief, details of parties to each document, mode of execution, issuance or receipt and line of custody of each document.

(*3*) The plaint shall contain a declaration on oath from the plaintiff that all documents in the power, possession, control or custody of the plaintiff, pertaining to the facts and circumstances of the proceedings initiated by him have been disclosed and copies thereof annexed with the plaint, and that the plaintiff does not have any other documents in its power, possession, control or custody.

Explanation.—A declaration on oath under this sub-rule shall be contained in the Statement of Truth as set out in the Appendix.

(*4*) In case of urgent filings, the plaintiff may seek leave to rely on additional documents, as part of the above declaration on oath and subject to grant of such leave by Court, the plaintiff shall file such additional documents in Court, within thirty days of filing the suit, along with a declaration on oath that the plaintiff has produced all documents in its power, possession, control or custody, pertaining to the facts and circumstances of the proceedings initiated by the plaintiff and that the plaintiff does not have any other documents, in its power, possession, control or custody.

(*5*) The plaintiff shall not be allowed to rely on documents, which were in the plaintiff's power, possession, control or custody and not disclosed along with plaint or within the extended period set out above, save and except by leave of Court and such leave shall be granted only upon the plaintiff establishing reasonable cause for non–disclosure along with the plaint.

(*6*) The plaint shall set out details of documents, which the plaintiff believes to be in the power, possession, control or custody of the defendant and which the plaintiff wishes to rely upon and seek leave for production thereof by the said defendant.

(*7*) The defendant shall file a list of all documents and photocopies of all documents, in its power, possession, control or custody, pertaining to the suit, along with the written statement or with its counterclaim if any, including—

(*a*) the documents referred to and relied on by the defendant in the written statement;

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1. Subs. by Act 28 of 2018, s. 18, for "Provided further that" (w.e.f. 3-5-2018).

(*b*) the documents relating to any matter in question in the proceeding in the power, possession, control or custody of the defendant, irrespective of whether the same is in support of or adverse to the defendant's defence;

(*c*) nothing in this Rule shall apply to documents produced by the defendants and relevant only—

(*i*) for the cross-examination of the plaintiff's witnesses,

(*ii*) in answer to any case set up by the plaintiff subsequent to the filing of the plaint, or

(*iii*) handed over to a witness merely to refresh his memory.

(*8*) The list of documents filed with the written statement or counterclaim shall specify whether the documents, in the power, possession, control or custody of the defendant, are originals, office copies or photocopies and the list shall also set out in brief, details of parties to each document being produced by the defendant, mode of execution, issuance or receipt and line of custody of each document.

(*9*) The written statement or counterclaim shall contain a declaration on oath made by the deponent that all documents in the power, possession, control or custody of the defendant, save and except for those set out in sub-rule (*7*) (*c*) (*iii*) pertaining to the facts and circumstances of the proceedings initiated by the plaintiff or in the counterclaim, have been disclosed and copies thereof annexed with the written statement or counterclaim and that the defendant does not have in its power, possession, control or custody, any other documents.

(*10*) Save and except for sub-rule (*7*) (*c*) (*iii*), defendant shall not be allowed to rely on documents, which were in the defendant's power, possession, control or custody and not disclosed along with the written statement or counterclaim, save and except by leave of Court and such leave shall be granted only upon the defendant establishing reasonable cause for non-disclosure along with the written statement or counterclaim.

(*11*) The written statement or counterclaim shall set out details of documents in the power, possession, control or custody of the plaintiff, which the defendant wishes to rely upon and which have not been disclosed with the plaint, and call upon the plaintiff to produce the same.

(*12*) Duty to disclose documents, which have come to the notice of a party, shall continue till disposal of the suit.

2. Discovery by interrogatories.—(*1*) In any suit the plaintiff or defendant by leave of the court may deliver interrogatories in writing for the examination of the opposite parties or any one or more of such parties, and such interrogatories when delivered shall have a note at the foot thereof stating which of such interrogatories each of such persons is required to answer:

Provided that no party shall deliver more than one set of interrogatories to the same party without an order for that purpose:

Provided further that interrogatories which do not relate to any matters in question in the suit shall be deemed irrelevant, notwithstanding that they might be admissible on the oral cross-examination of a witness.

(*2*) On an application for leave to deliver interrogatories, the particular interrogatories proposed to be delivered shall be submitted to the court, and that court shall decide within seven days from the day of filing of the said application, in deciding upon such application, the court shall take into account any offer, which may be made by the party sought to be interrogated to deliver particulars, or to make admissions, or to produce documents relating to the matters in question, or any of them, and leave shall be given as to such only of the interrogatories submitted as the court shall consider necessary either for disposing fairly of the suit or for saving costs.

(*3*) In adjusting the costs of the suit inquiry shall at the instance of any party be made into the propriety of exhibiting such interrogatories, and if it is the opinion of the taxing officer or of the court, either with or without an application for inquiry, that such interrogatories have been exhibited unreasonably, vexatiously, or at improper length, the costs occasioned by the said interrogatories and the answers thereto shall be paid in any event by the party in fault.

(*4*) Interrogatories shall be in the form provided in Form No. 2 in Appendix C to the Code of Civil Procedure, 1908 (5 of 1908), with such variations as circumstances may require.

(*5*) Where any party to a suit is a corporation or a body of persons, whether incorporated or not, empowered by law to sue or be sued, whether in its own name or in the name of any officer of other person, any opposite party may apply for an order allowing him to deliver interrogatories to any member or officer of such corporation or body, and an order may be made accordingly.

(*6*) Any objection to answering any interrogatory on the ground that it is scandalous or irrelevant or not exhibited *bona fide* for the purpose of the suit, or that the matters inquired into are not sufficiently material at that stage, or on the ground of privilege or any other ground may be taken in the affidavit in answer.

(*7*) Any interrogatories may be set aside on the ground that they have been exhibited unreasonably or vexatiously, or struck out on the ground that they are prolix, oppressive, unnecessary or scandalous and any application for this purpose may be made within seven days after service of the interrogatories.

(*8*) Interrogatories shall be answered by affidavit to be filed within ten days, or within such other time as the court may allow.

(*9*) An affidavit in answer to interrogatories shall be in the form provided in Form No. 3 in Appendix C to the Code of Civil Procedure, 1908 (5 of 1908), with such variations as circumstances may require.

(*10*) No exceptions shall be taken to any affidavit in answer, but the sufficiency or otherwise of any such affidavit objected to as insufficient shall be determined by the court.

(*11*) Where any person interrogated omits to answer, or answers insufficiently, the party interrogating may apply to the court for an order requiring him to answer, or to answer further, as the case may be, and an order may be made requiring him to answer, or to answer further, either affidavit or by *viva voce* examination, as the court may direct.

3. Inspection.—(*1*) All parties shall complete inspection of all documents disclosed within thirty days of the date of filing of the written statement or written statement to the counterclaim, whichever is later. The Court may extend this time limit upon application at its discretion, but not beyond thirty days in any event.

(*2*) Any party to the proceedings may seek directions from the Court, at any stage of the proceedings, for inspection or production of documents by the other party, of which inspection has been refused by such party or documents have not been produced despite issuance of a notice to produce.

(*3*) Order in such application shall be disposed of within thirty days of filing such application, including filing replies and rejoinders (if permitted by Court) and hearing.

(*4*) If the above application is allowed, inspection and copies thereof shall be furnished to the party seeking it, within five days of such order.

(*5*) No party shall be permitted to rely on a document, which it had failed to disclose or of which inspection has not been given, save and except with leave of Court.

(*6*) The Court may impose exemplary costs against a defaulting party, who wilfully or negligently failed to disclose all documents pertaining to a suit or essential for a decision therein and which are in their power, possession, control or custody or where a Court holds that inspection or copies of any documents had been wrongfully or unreasonably withheld or refused.

4. Admission and denial of documents.—(*1*) Each party shall submit a statement of admissions or denials of all documents disclosed and of which inspection has been completed, within fifteen days of the completion of inspection or any later date as fixed by the Court.

(*2*) The statement of admissions and denials shall set out explicitly, whether such party was admitting or denying:—

(*a*) correctness of contents of a document;

(*b*) existence of a document;

(*c*) execution of a document;

(*d*) issuance or receipt of a document;

(*e*) custody of a document.

Explanation.—A statement of admission or denial of the existence of a document made in accordance with sub-rule (*2*) (*b*) shall include the admission or denial of the contents of a document.

(*3*) Each party shall set out reasons for denying a document under any of the above grounds and bare and unsupported denials shall not be deemed to be denials of a document and proof of such documents may then be dispensed with at the discretion of the Court.

(*4*) Any party may however submit bare denials for third party documents of which the party denying does not have any personal knowledge of, and to which the party denying is not a party to in any manner whatsoever.

(*5*) An Affidavit in support of the statement of admissions and denials shall be filed confirming the correctness of the contents of the statement.

(*6*) In the event that the Court holds that any party has unduly refused to admit a document under any of the above criteria,–costs (including exemplary costs) for deciding on admissibility of a document may be imposed by the Court on such party.

(*7*) The Court may pass orders with respect to admitted documents including for waiver of further proof thereon or rejection of any documents.

5. Production of documents.—(*1*) Any party to a proceeding may seek or the Court may order, at any time during the pendency of any suit, production by any party or person, of such documents in the possession or power of such party or person, relating to any matter in question in such suit.

(*2*) Notice to produce such document shall be issued in the Form provided in Form No. 7 in Appendix C to the Code of Civil Procedure, 1908 (5 of 1908).

(*3*) Any party or person to whom such notice to produce is issued shall be given not less than seven days and not more than fifteen days to produce such document or to answer to their inability to produce such document.

(*4*) The Court may draw an adverse inference against a party refusing to produce such document after issuance of a notice to produce and where sufficient reasons for such non–production are not given and order costs.

6. Electronic records.—(*1*) In case of disclosures and inspection of Electronic Records (as defined in the Information Technology Act, 2000 (21 of 2000)), furnishing of printouts shall be sufficient compliance of the above provisions.

(*2*) At the discretion of the parties or where required (when parties wish to rely on audio or video content), copies of electronic records may be furnished in electronic form either in addition to or in lieu of printouts.

(*3*) Where Electronic Records form part of documents disclosed, the declaration on oath to be filed by a party shall specify—

(*a*) the parties to such Electronic Record;

(*b*) the manner in which such electronic record was produced and by whom;

(*c*) the dates and time of preparation or storage or issuance or receipt of each such electronic record;

(*d*) the source of such electronic record and date and time when the electronic record was printed;

(*e*) in case of email ids, details of ownership, custody and access to such email ids;

(*f*) in case of documents stored on a computer or computer resource (including on external servers or cloud), details of ownership, custody and access to such data on the computer or computer resource;

(*g*) deponent's knowledge of contents and correctness of contents;

(*h*) whether the computer or computer resource used for preparing or receiving or storing such document or data was functioning properly or in case of malfunction that such malfunction did not affect the contents of the document stored;

(*i*) that the printout or copy furnished was taken from the original computer or computer resource.

(*4*) The parties relying on printouts or copy in electronic form, of any electronic records, shall not be required to give inspection of electronic records, provided a declaration is made by such party that each such copy, which has been produced, has been made from the original electronic record.

(*5*) The Court may give directions for admissibility of Electronic Records at any stage of the proceedings.

(*6*) Any party may seek directions from the Court and the Court may of its motion issue directions for submission of further proof of any electronic record including metadata or logs before admission of such electronic record.

7. Certain provisions of the Code of Civil Procedure, 1908 not to apply.—For avoidance of doubt, it is hereby clarified that Order XIII Rule 1, Order VII Rule 14 and Order VIII Rule 1A of the Code of Civil Procedure, 1908 (5 of 1908) shall not apply to suits or applications before the Commercial Divisions of High Court or Commercial Courts.".

5. Insertion of new Order XIII-A.—After Order XIII of the Code, the following Order shall be inserted, namely:—

'ORDER XIII-A

SUMMARY JUDGMENT

1. Scope of and classes of suits to which this Order applies.—(*1*) This Order sets out the procedure by which Courts may decide a claim pertaining to any Commercial Dispute without recording oral evidence.

(*2*) For the purposes of this Order, the word "claim" shall include—

(*a*) part of a claim;

(*b*) any particular question on which the claim (whether in whole or in part) depends; or

(c) a counterclaim, as the case may be.

(*3*) Notwithstanding anything to the contrary, an application for summary judgment under this Order shall not be made in a suit in respect of any Commercial Dispute that is originally filed as a summary suit under Order XXXVII.

2. Stage for application for summary judgment.—An applicant may apply for summary judgment at any time after summons has been served on the defendant:

Provided that, no application for summary judgment may be made by such applicant after the Court has framed the issues in respect of the suit.

3. Grounds for summary judgment.—The Court may give a summary judgment against a plaintiff or defendant on a claim if it considers that—

(*a*) the plaintiff has no real prospect of succeeding on the claim or the defendant has no real prospect of successfully defending the claim, as the case may be; and

(*b*) there is no other compelling reason why the claim should not be disposed of before recording of oral evidence.

4. Procedure.—(*1*) An application for summary judgment to a Court shall, in addition to any other matters the applicant may deem relevant, include the matters set forth in sub-clauses (*a*) to (*f*) mentioned hereunder:—

(*a*) the application must contain a statement that it is an application for summary judgment made under this Order;

(*b*) the application must precisely disclose all material facts and identify the point of law, if any;

(*c*) in the event the applicant seeks to rely upon any documentary evidence, the applicant must,—

(*i*) include such documentary evidence in its application, and

(*ii*) identify the relevant content of such documentary evidence on which the applicant relies;

(*d*) the application must state the reason why there are no real prospects of succeeding on the claim or defending the claim, as the case may be;

(*e*) the application must state what relief the applicant is seeking and briefly state the grounds for seeking such relief.

(*2*) Where a hearing for summary judgment is fixed, the respondent must be given at least thirty days' notice of:—

(*a*) the date fixed for the hearing; and

(*b*) the claim that is proposed to be decided by the Court at such hearing.

(*3*) The respondent may, within thirty days of the receipt of notice of application of summary judgment or notice of hearing (whichever is earlier), file a reply addressing the matters set forth in clauses (*a*) to (*f*) mentioned hereunder in addition to any other matters that the respondent may deem relevant:—

(*a*) the reply must precisely—

(*i*) disclose all material facts;

(*ii*) identify the point of law, if any; and

(*iii*) state the reasons why the relief sought by the applicant should not be granted;

(*b*) in the event the respondent seeks to rely upon any documentary evidence in its reply, the respondent must—

(*i*) include such documentary evidence in its reply; and

(*ii*) identify the relevant content of such documentary evidence on which the respondent relies;

(*c*) the reply must state the reason why there are real prospects of succeeding on the claim or defending the claim, as the case may be;

(*d*) the reply must concisely state the issues that should be framed for trial;

(*e*) the reply must identify what further evidence shall be brought on record at trial that could not be brought on record at the stage of summary judgment; and

(*f*) the reply must state why, in light of the evidence or material on record if any, the Court should not proceed to summary judgment.

5. Evidence for hearing of summary judgment.—(*1*) Notwithstanding anything in this Order, if the respondent in an application for summary judgment wishes to rely on additional documentary evidence during the hearing, the respondent must:—

(*a*) file such documentary evidence; and

(*b*) serve copies of such documentary evidence on every other party to the application at least fifteen days prior to the date of the hearing.

(*2*) Notwithstanding anything in this Order, if the applicant for summary judgment wishes to rely on documentary evidence in reply to the defendant's documentary evidence, the applicant must:—

(*a*) file such documentary evidence in reply; and

(*b*) serve a copy of such documentary evidence on the respondent at least five days prior to the date of the hearing.

(*3*) Notwithstanding anything to the contrary, sub-rules (*1*) and (*2*) shall not require documentary evidence to be:—

(*a*) filed if such documentary evidence has already been filed; or

(*b*) served on a party on whom it has already been served.

6. Orders that may be made by Court.—(*1*) On an application made under this Order, the Court may make such orders that it may deem fit in its discretion including the following:—

(*a*) judgment on the claim;

(*b*) conditional order in accordance with Rule 7 mentioned hereunder;

(*c*) dismissing the application;

(*d*) dismissing part of the claim and a judgment on part of the claim that is not dismissed;

(*e*) striking out the pleadings (whether in whole or in part); or

(*f*) further directions to proceed for case management under Order XV-A.

(*2*) Where the Court makes any of the orders as set forth in sub-rule (*1*) (*a*) to (*f*), the Court shall record its reasons for making such order.

7. Conditional order.—(*1*) Where it appears to the Court that it is possible that a claim or defence may succeed but it is improbable that it shall do so, the Court may make a conditional order as set forth in Rule 6 (*1*) (*b*).

(*2*) Where the Court makes a conditional order, it may:—

(*a*) make it subject to all or any of the following conditions:—

(*i*) require a party to deposit a sum of money in the Court;

(*ii*) require a party to take a specified step in relation to the claim or defence, as the case may be;

(*iii*) require a party, as the case may be, to give such security or provide such surety for restitution of costs as the Court deems fit and proper;

(*iv*) impose such other conditions, including providing security for restitution of losses that any party is likely to suffer during the pendency of the suit, as the Court may deem fit in its discretion; and

(*b*) specify the consequences of the failure to comply with the conditional order, including passing a judgment against the party that have not complied with the conditional order.

8. Power to impose costs.—The Court may make an order for payment of costs in an application for summary judgment in accordance with the provisions of sections 35 and 35A of the Code.'.

6. Omission of Order XV.—Order XV of the Code shall be omitted.

7. Insertion of Order XV-A.—7. After Order XV of the Code, the following Order shall be inserted, namely:—

"ORDER XV A

CASE MANAGEMENT HEARING

1. First Case Management Hearing.—The Court shall hold the first Case Management Hearing, not later than four weeks from the date of filing of affidavit of admission or denial of documents by all parties to the suit.

2. Orders to be passed in a Case Management Hearing.—In a Case Management Hearing, after hearing the parties, and once it finds that there are issues of fact and law which require to be tried, the Court may pass an order—

(*a*) framing the issues between the parties in accordance with Order XIV of the Code of Civil Procedure, 1908 (5 of 1908) after examining pleadings, documents and documents produced before it, and on examination conducted by the Court under Rule 2 of Order X, if required;

(*b*) listing witnesses to be examined by the parties;

(*c*) fixing the date by which affidavit of evidence to be filed by parties;

(*d*) fixing the date on which evidence of the witnesses of the parties to be recorded;

(*e*) fixing the date by which written arguments are to be filed before the Court by the parties;

(*f*) fixing the date on which oral arguments are to be heard by the Court; and

(*g*) setting time limits for parties and their advocates to address oral arguments.

3. Time limit for the completion of a trial.—In fixing dates or setting time limits for the purposes of Rule 2 of this Order, the Court shall ensure that the arguments are closed not later than six months from the date of the first Case Management Hearing.

4. Recording of oral evidence on a day-today basis.—The Court shall, as far as possible, ensure that the recording of evidence shall be carried on, on a day-to-day basis until the cross-examination of all the witnesses is complete.

5. Case Management Hearings during a trial.—The Court may, if necessary, also hold Case Management Hearings anytime during the trial to issue appropriate orders so as to ensure adherence by the parties to the dates fixed under Rule 2 and facilitate speedy disposal of the suit.

6. Powers of the Court in a Case Management Hearing.—(*1*) In any Case Management Hearing held under this Order, the Court shall have the power to—

(*a*) prior to the framing of issues, hear and decide any pending application filed by the parties under Order XIII-A;

(*b*) direct parties to file compilations of documents or pleadings relevant and necessary for framing issues;

(*c*) extend or shorten the time for compliance with any practice, direction or Court order if it finds sufficient reason to do so;

(*d*) adjourn or bring forward a hearing if it finds sufficient reason to do so;

(*e*) direct a party to attend the Court for the purposes of examination under Rule 2 of Order X;

(*f*) consolidate proceedings;

(*g*) strike off the name of any witness or evidence that it deems irrelevant to the issues framed;

(*h*) direct a separate trial of any issue;

(*i*) decide the order in which issues are to be tried;

(*j*) exclude an issue from consideration;

(*k*) dismiss or give judgment on a claim after a decision on a preliminary issue;

(*l*) direct that evidence be recorded by a Commission where necessary in accordance with Order XXVI;

(*m*) reject any affidavit of evidence filed by the parties for containing irrelevant, inadmissible or argumentative material;

(*n*) strike off any parts of the affidavit of evidence filed by the parties containing irrelevant, inadmissible or argumentative material;

(*o*) delegate the recording of evidence to such authority appointed by the Court for this purpose;

(*p*) pass any order relating to the monitoring of recording the evidence by a commission or any other authority;

(*q*) order any party to file and exchange a costs budget;

(*r*) issue directions or pass any order for the purpose of managing the case and furthering the overriding objective of ensuring the efficient disposal of the suit.

(*2*) When the Court passes an order in exercise of its powers under this Order, it may—

(*a*) make it subject to conditions, including a condition to pay a sum of money into Court; and

(*b*) specify the consequence of failure to comply with the order or a condition.

(*3*) While fixing the date for a Case Management Hearing, the Court may direct that the parties also be present for such Case Management Hearing, if it is of the view that there is a possibility of settlement between the parties.

7. Adjournment of Case Management Hearing.—(*1*) The Court shall not adjourn the Case Management Hearing for the sole reason that the advocate appearing on behalf of a party is not present:

Provided that an adjournment of the hearing is sought in advance by moving an application, the Court may adjourn the hearing to another date upon the payment of such costs as the Court deems fit, by the party moving such application.

(*2*) Notwithstanding anything contained in this Rule, if the Court is satisfied that there is a justified reason for the absence of the advocate, it may adjourn the hearing to another date upon such terms and conditions it deems fit.

8. Consequences of non-compliance with orders.—Where any party fails to comply with the order of the Court passed in a Case Management Hearing, the Court shall have the power to—

(*a*) condone such non-compliance by payment of costs to the Court;

(*b*) foreclose the non-compliant party's right to file affidavits, conduct cross-examination of witnesses, file written submissions, address oral arguments or make further arguments in the trial, as the case may be, or

(*c*) dismiss the plaint or allow the suit where such non-compliance is wilful, repeated and the imposition of costs is not adequate to ensure compliance.".

8. Amendment of Order XVIII.—In Order XVIII of the Code, in Rule 2, for sub-rules (*3A*), (*3B*), (*3C*), (*3D*), (*3E*) and (*3F*), the following shall be substituted, namely:—

"(*3A*) A party shall, within four weeks prior to commencing the oral arguments, submit concisely and under distinct headings written arguments in support of his case to the Court and such written arguments shall form part of the record.

(*3B*) The written arguments shall clearly indicate the provisions of the laws being cited in support of the arguments and the citations of judgments being relied upon by the party and include copies of such judgments being relied upon by the party.

(*3C*) A copy of such written arguments shall be furnished simultaneously to the opposite party.

(*3D*) The Court may, if it deems fit, after the conclusion of arguments, permit the parties to file revised written arguments within a period of not more than one week after the date of conclusion of arguments.

(*3E*) No adjournment shall be granted for the purpose of filing the written arguments unless the Court, for reasons to be recorded in writing, considers it necessary to grant such adjournment.

(*3F*) It shall be open for the Court to limit the time for oral submissions having regard to the nature and complexity of the matter.".

9. Amendment of Order XVIII.—In Order XVIII of the Code, in Rule 4, after sub-rule (*1*), the following sub-rules shall be inserted, namely:—

‘‘(*1A*) The affidavits of evidence of all witnesses whose evidence is proposed to be led by a party shall be filed simultaneously by that party at the time directed in the first Case Management Hearing.

(*1B*) A party shall not lead additional evidence by the affidavit of any witness (including of a witness who has already filed an affidavit) unless sufficient cause is made out in an application for that purpose and an order, giving reasons, permitting such additional affidavit is passed by the Court.

(*1C*) A party shall however have the right to withdraw any of the affidavits so filed at any time prior to commencement of cross-examination of that witness, without any adverse inference being drawn based on such withdrawal:

Provided that any other party shall be entitled to tender as evidence and rely upon any admission made in such withdrawn affidavit.”.

10. Amendment to Order XIX.—In Order XIX of the Code, after Rule 3, the following Rules shall be inserted, namely:—

“**4. Court may control evidence.—**(*1*) The Court may, by directions, regulate the evidence as to issues on which it requires evidence and the manner in which such evidence may be placed before the Court.

(*2*) The Court may, in its discretion and for reasons to be recorded in writing, exclude evidence that would otherwise be produced by the parties.”.

5. Redacting or rejecting evidence.—A Court may, in its discretion, for reasons to be recorded in writing—

(*i*) redact or order the redaction of such portions of the affidavit of examination-in-chief as do not, in its view, constitute evidence; or

(*ii*) return or reject an affidavit of examination-in-chief as not constituting admissible evidence.

6. Format and guidelines of affidavit of evidence.—An affidavit must comply with the form and requirements set forth below:—

(*a*) such affidavit should be confined to, and should follow the chronological sequence of, the dates and events that are relevant for proving any fact or any other matter dealt with;

(*b*) where the Court is of the view that an affidavit is a mere reproduction of the pleadings, or contains the legal grounds of any party’s case, the Court may, by order, strike out the affidavit or such parts of the affidavit, as it deems fit and proper;

(*c*) each paragraph of an affidavit should, as far as possible, be confined to a distinct portion of the subject;

(*d*) an affidavit shall state—

(*i*) which of the statements in it are made from the deponent’s own knowledge and which are matters of information or belief; and

(*ii*) the source for any matters of information or belief;

(*e*) an affidavit should—

(*i*) have the pages numbered consecutively as a separate document (or as one of several documents contained in a file);

(*ii*) be divided into numbered paragraphs;

(*iii*) have all numbers, including dates, expressed in figures; and

(*iv*) if any of the documents referred to in the body of the affidavit are annexed to the affidavit or any other pleadings, give the annexures and page numbers of such documents that are relied upon.".

11. Amendment of Order XX.—In Order XX of the Code, for Rule 1, the following Rule shall be substituted, namely:—

"(*1*) The [1][Commercial Court, Commercial Appellate Court], Commercial Division, or Commercial Appellate Division, as the case may be, shall, within ninety days of the conclusion of arguments, pronounce judgment and copies thereof shall be issued to all the parties to the dispute through electronic mail or otherwise.".

[2][**12**. After Appendix H, the following Appendix shall be inserted, namely:—

''APPENDIX-I

STATEMENT OF TRUTH

(Under First Schedule, Order VI- Rule 15A and Order XI- Rule 3)

I ----- the deponent do hereby solemnly affirm and declare as under:

1. I am the party in the above suit and competent to swear this affidavit.

2. I am sufficiently conversant with the facts of the case and have also examined all relevant documents and records in relation thereto.

3. I say that the statements made in -----paragraphs are true to my knowledge and statements made in -----paragraphs are based on information received which I believe to be correct and statements made in ---paragraphs are based on legal advice.

4. I say that there is no false statement or concealment of any material fact, document or record and I have included information that is according to me, relevant for the present suit.

5. I say that all documents in my power, possession, control or custody, pertaining to the facts and circumstances of the proceedings initiated by me have been disclosed and copies thereof annexed with the plaint, and that I do not have any other documents in my power, possession, control or custody.

6. I say that the above-mentioned pleading comprises of a total of ---- pages, each of which has been duly signed by me.

7. I state that the Annexures hereto are true copies of the documents referred to and relied upon by me.

8. I say that I am aware that for any false statement or concealment, I shall be liable for action taken against me under the law for the time being in force.

Place:

Date:

DEPONENT

VERIFICATION

I, ……. do hereby declare that the statements made above are true to my knowledge.

Verified at [place] on this [date]

DEPONENT.".]

1. Subs. by Act 28 of 2018, s. 18, for "Commercial Court" (w.e.f. 3-5-2018).
2. Ins. by s. 18, *ibid.,* (w.e.f. 23-10-2015).