

CHAPTER 7

RULES UNDER SPECIAL ACTS

PART A.—RULES MADE BY THE HIGH COURT OF PUNJAB AND HARYANA TO REGULATE THE PROCEDURE IN CASE OF APPLICATIONS TO SET ASIDE ORDERS OF FORFEITURE PASSED BY THE STATE GOVERNMENT UNDER SECTION 95(1) OF THE CODE, IN EXERCISE OF THE POWERS CONFERRED BY ARTICLE 225 OF THE CONSTITUTION AND ALL OTHER POWERS ENABLING IT IN THIS BEHALF.

1. Every application to the High Court, under Section 96(1) of the Code of Criminal Procedure, 1973 to set aside an order of forfeiture under Section 95(1) of the Code, shall be made by the presentation of a petition which shall be signed by the applicant and verified at the foot by the affidavit of the applicant.

Application to be signed and verified.

2. The petition shall be written in the English language on foolscap paper or other paper similar to it in size and quality, and divided into paragraphs, numbered-consecutively. Dates and sums occurring the petition shall be expressed in figures.

Language, paper and other essentials.

3. The petition-shall be headed : —

Title.

"In the High Court of Punjab and Haryana at Chandigarh" and shall be instituted "In the matter of the—(name of description of book, document or newspaper as the case may be)".

4. The petition shall state what the interest of the applicant is in the property in respect of which the order of forfeiture has been made and all documents or copies thereof in proof of such interest together with a copy of the notice of forfeiture under Section 95 of the Code of Criminal Procedure, 1973 shall be annexed as exhibits to the petition.

Contents of petition and exhibits to be annexed.

5. The petition shall state the ground or grounds on which it is sought to set aside the order of forfeiture.

Grounds to be stated.

Deposits of printing charges.

6. The applicant shall, with his petition, attach a receipt for a deposit of Rs. 100 to cover the cost of printing the record.

Translation of vernacular documents.

7. All vernacular documents annexed as exhibits to the petition and all vernacular documents relied on by the applicant and intended to be in evidence, shall be translated into English by an official translator or translators.

Presentation of petition and constitution of a special Branch for the hearing.

8. The petition with exhibits annexed thereto and their translations, if any, together with a copy of such, petition and exhibits with translations shall be presented to the Deputy Registrar, who will lay the same before the Honourable the Chief Justice. The Honourable the Chief Justice will then constitute a Special Bench composed of three Honourable Judges as required by Section 96(2) of the Criminal Procedure Code and appoint a day for the hearing and determination of the application.

Notice to produce the document on which forfeiture was ordered.

9. The Deputy Registrar shall forthwith give notice of the filing of the application to the Advocate-General of the State concerned and shall request him to obtain from Government and to furnish to the Court, as soon as possible, a copy of the particular newspaper, book or other document containing the words signs or visible representations on which the declaration of forfeiture was based.

Evidence by affidavits.

10. Evidence in support of or against the petition shall be in the form of affidavits. The Advocate-General shall, within fifteen days of the receipt of the notice mentioned in Rule 9, file affidavits on behalf of the State and supply copies thereof to the other side. The applicant shall, within fifteen days of the receipt of copies of the affidavits, file his affidavits and likewise supply the Advocate-General with copies.

Date of hearing to be notified to Government.

11. Notice in writing of the day appointed for the hearing and determination of the application shall be given by the Deputy Registrar to the Chief Secretary to Government of the Punjab or Haryana or to the Chief Commissioner of U.T. Chandigarh as the case

may be, and the copy of the petition and exhibits with translations, if any, mentioned in Rule 8 shall accompany such notice.

12. A printed paper-book shall be prepared and completed under the orders of the Deputy Registrar at least one week before the day fixed for hearing and determination of the application.

Printed paper book to be prepared a week before date of hearing.

13. There shall ordinarily be printed 30 copies of the paper-book, but the Deputy Registrar may, when necessary direct a larger number to be printed.

Thirty copies of paper book to be prepared.

14. In the absence of a special order, the printed paper-book shall ordinarily contain :—

Contents of paper-book.

- (1) the declaration of forfeiture in respect of which the application is made ;
- (2) the application and the affidavit of the applicant ;
- (3) the exhibits annexed to the application, or their translation ;
- (4) the affidavits filed under Rule 10 and a reprint of such portions of the prescribed publications (translated into English, if in vernacular in accordance with Rule 7) to be indicated by the parties within 15 days of the receipt of the notice which will be issued by the Deputy Registrar to the applicant, or his counsel, if any, and the Advocate-General.

Note—The cost of printing (1), (2) and (3) will be met by the applicant out of the deposit made under rule 6 and the cost of (4) will be borne by the party concerned.

15. If the deposit required under Rule 6 proves insufficient to cover the cost of the printed paper-book, additional the Deputy Registrar may, by a notice in writing, require that such further deposit, as seems to him necessary, shall be made within one week.

Recovery of additional cost of printing.

Action to be taken on failure to deposit additional cost.

16. If such further deposit be not made within the time specified in the notice, the application shall be placed without notice to the applicant, before a Special Bench composed of three Judges which will either dismiss the application or pass such other orders as may be suitable.

Supply of copies of paper book to parties before date of hearing.

17. The applicant and his counsel and the advocate General shall be entitled to receive copies of the printed record on application to the Deputy Registrar one week before the date fixed for hearing.

Printing charges to be included in costs.

18. At the foot of every printed-book shall be noted the amount of the printing and incidental charges and the person from whom levied, and such amount shall be included in the costs of the proceedings unless the court shall otherwise direct.

Refund of unspent balance of deposit.

Should the amount so charged be less than the sum or sums deposited under Rules 6 and 15, the Deputy Registrar shall refund the balance to the applicant.

Taxation of costs.

19. The table of fees now in force in this Court shall be applicable to all applications under section 96(1) of the Code of Criminal Procedure and proceedings thereon and costs payable in respect of such applications and proceedings shall be taxed, when so directed, by the Taxing Officer of this Court.

Execution of orders passed.

20. The provisions of the Code of Civil Procedure and the Rules and Orders relating to the execution of decrees shall be applicable to the execution of orders passed by the High Court on applications under Section 96(1) of the Code of Criminal Procedure.