

CHAPTER VI  
Appearance by Defendant, Written Statement,  
Set off and Counter Claim

**1. In default of appearance by defendant suit to be posted on short cause day**—If on the day fixed for his appearance in the writ of summons the defendant does not appear and it is proved that the summons was duly served, the suit shall whether the summons was issued for final disposal or not, be set down for final disposal on the next or some subsequent short cause day.

**2. Procedure when defendant appears**—If the defendant appears personally or by an advocate before or on the day fixed for his appearance in the writ of summons:—

(i) Where the summons had been issued for final disposal, the suit shall be set down for final disposal on the next or subsequent short cause day;

(ii) Where the summons is for appearance and for filing written statement on the date fixed for appearance. A copy of the written statement shall be served on plaintiff and the written statement shall not be accepted unless it contains an endorsement of service signed by such party of his Advocate.

**3. Extension of time for filing written statement**—Ordinarily, not more than one extension of time shall be granted to the defendant for filing a written statement provided that a second or any further extension may be granted only on an application made in writing setting forth sufficient grounds for such extension and supported, if so required, by an affidavit.

<sup>1</sup>[4. xxx xxx xxx]

**5. Service of copies of written statement and list of documents on the other side**—No written statement or list of documents shall be filed without the leave of the Court unless a copy thereof has been previously served on each party or his advocate. Parties or their advocates served with such copies shall give a receipt therefor. Copies shall be authenticated by the signature or initials of the parties or their advocates on each page at the bottom of the left hand margin.

**6. Orders as to claims for set-off**—Where a defendant pleads a set-off under Order VIII, Rule 6 of the Code, the Court on the application of the plaintiff made in that behalf may at any stage of the proceedings and after hearing the defendant make an order directing that the claim for set-off be tried separately or make such other order as may be just.

**7. Counter-claim by defendant**—(a) A defendant in a suit, in addition to his right of pleading a set-off under Order VIII, Rule 6 of the Code may set up by way of counter claim against the claims of the plaintiff and right or claim, whether such counter-claim sounds in damages or not.

(b) Subject to the provisions of Rule 10, such counter-claim shall have the same effect as a cross-suit so as to enable the Court to pronounce a final judgment in the same suit, both on the original and on the counter claim.

**8. Counter claim to be specifically pleaded**—Where any defendant seeks to rely upon any grounds as supporting the right of counter-claim he shall, in his written statement, state specifically that he does so by way of counter-claim.

**9. Reply to counter-claim**—When a counter-claim is made in a written statement plaintiff may deliver a reply to the counter-claim within three weeks or within such further time as the Registrar may for sufficient cause allow.

**10. Orders on counter-claim**—Where a defendant sets up a counter-claim, the Court on the application of the plaintiff made in that behalf at any stage of the proceedings and after hearing the defendant make an order directing that the counter claim be tried separately or make such other order as may be just.

**11. Proceeding with the counter-claim where suit is stayed etc.**—Where in any case in which the defendant sets up a counter claim the suit of the plaintiff is stayed discontinued or dismissed the counter claim may nevertheless be proceeded with.

**12. Order XX Rule 19 to apply to decree in such suits**—Sub-rule (1) and (2) of Rule 19 of Order XX of the Code shall apply to the decree in a suit in which counter-claim is made.

1. Rule 4 deleted vide Notification No. 243/DHC/Rules dated 27-8-1987.