

HIGH COURT OF DELHI AT NEW DELHI

No. 69/Rules/DHC/2019

Dated: 05.12.2019

PRACTICE DIRECTIONS

In exercise of powers conferred by Section 7 of the Delhi High Court Act, Hon'ble the Chief Justice has been pleased to issue the following **Practice Directions** for information and compliance by all concerned in respect of **Civil Miscellaneous (Main) Petitions under Article 227 of the Constitution of India and Civil Revision Petitions under Section 115 of the Code of Civil Procedure, 1908:-**

1. Advance Service of Petition:-

(a) In a Civil Miscellaneous (Main) Petition under Article 227 of the Constitution of India or Civil Revision Petition under Section 115 of the Code of Civil Procedure, 1908 arising from an order in a pending proceeding before a Court subordinate to the High Court, an advance copy of the paper book shall be served upon each opposite party or their counsel (if any) who appeared last for such opposite party in the Trial Court.

Provided that the requirement of service of advance copy of the paper book is dispensed with in respect of such opposite parties who have been proceeded ex parte before the Trial Court.

(b) In the event, the opposite party is the Union of India; a State Government, a Statutory Authority, a Public Sector Undertaking, or a Government Department etc., who may have nominated Senior / Standing Counsel; Nominated Counsel; or Empanelled Counsel, such advance copy shall be served directly upon such Counsel (other than a Senior Advocate), under written endorsement of service, and not directly served upon Union of India / State Government / the concerned department, as the case may be.

(c) The petitioner shall intimate all opposite parties in the matter about the filing and likely date of listing of the said petition. The petition shall be accompanied by written proof of such intimation and their respective service, besides indicating name (s) of all opposite parties in the matter. Once the petition has been cleared for listing by the Registry, the date of listing of the petition shall be intimated by the counsel for the petitioner to each opposite party or their counsel (if any) by phone / SMS/ email. The counsel for the petitioner shall give an undertaking to this effect in his application for urgent listing of the petition.

(d) The Advocate for the petitioner(s) shall give a written declaration indicating:-

- (i) the total number of opposite parties,
- (ii) whether all the opposite parties have been served with the advance copy of the petition and
- (iii) the mode of their service.

(e) Where advance service of the petition has been effected personally, the Counsel for the petitioner shall ensure:-

(i) that on the index at the time of filing pleadings or documents, their full names, enrolment numbers and mobile numbers along with their e-mail addresses are specified.

(ii) that the acknowledgement of service of advance copies of the paper book is endorsed on the first or second page of the filing index; the person acknowledging receipt of advance copies shall sign, write his name, court clerk's registration number (if received by court clerk) and his mobile number as also the party for whom the acknowledgement is being given (Petitioner/Plaintiff/ Defendant/Respondent no.1 or 2 etc.);

(iii) that their court clerks do not effect wrong/ false acknowledgements of service in the original pleadings/documents index filed before the Court. Any court clerk, who does so shall be liable for strict action;

2. Service of petition other than by personal service:-

(a) Service by UPC will not be accepted by the Registry as adequate proof of service.

(b) Service on the opposite counsel / party by Registered post A/D, speed post or courier service will be accepted by the Registry as adequate proof of service, effective three clear days after the last date of despatch. Consequently, if the last date of despatch is, say, the 5th of July, then the petition will be listed on or after the 9th of July.

(c) Service on the opposite counsel / party by e-mail shall also be accepted by the Registry at adequate proof of service provided the petition is accompanied with an affidavit of the filing counsel/party to the effect that the e-mail address at which e-mail has been sent is that of the concerned party/counsel and that the e-mail has been delivered and has not bounced back. The affidavit shall also set out the date and time of the e-mail sent and the e-mail address at which it has been sent. The e-mail shall also specify the actual date when the fresh filing is to be listed. In case there are defects and re-filings, the final filing shall be accompanied with affidavit of service of e-mail of the fresh date of listing.

3. Details of mobile phone numbers and email of opposite parties:-

(a) Where a Civil Miscellaneous (Main) Petition under Article 227 of the Constitution of India or Civil Revision Petition under Section 115 of the Code of Civil Procedure, 1908 is filed, the petitioner shall mention in the memo of parties, the name, mobile number and email address of each opposite party or their counsel.

(b) Where the name, mobile number and email address of each opposite party or their counsel is found mentioned in the memo of parties, the Registry shall enter the same in the data management system of the High Court so that auto generated SMS / email are also sent to each opposite party or their counsel regarding the filing of the petition, its progress during scrutiny by the Registry and its date of listing.

4. Copies of pleadings, order sheets of Trial Court:-

(a) Where a Civil Miscellaneous (Main) Petition under Article 227 of the Constitution of India or Civil Revision Petition under Section 115 of the Code of Civil Procedure, 1908 is filed, the petitioner shall file the relevant pleadings of the original proceedings, relevant order sheets, issues if framed in the case, pleadings of relevant interim applications and documents which the petitioner intends to rely upon.

Provided that every endeavour shall be made to place on record pleadings / documents (other than case law) referred to in the impugned order.

(b) It shall be sufficient if copies of the documents mentioned above are filed with self certification of the counsel for the petitioner to the effect that each such document is the true copy of its respective original in the file of the Trial Court. The Registry shall not insist upon the petitioner to file certified copies of such documents.

(c) The Registry shall not list any such petition before the Court which is not accompanied with any of the documents mentioned above.

5. Appearance on the first date of listing:-

(a) Where a Civil Miscellaneous (Main) Petition under Article 227 of the Constitution of India or Civil Revision Petition under Section 115 of the Code of Civil Procedure, 1908 is filed, any opposite party desiring to oppose any of the prayers made in such petition or in any interim application accompanying such petition shall appear personally or through counsel to make submissions as he / she may desire before the Court.

(b) In case any opposite party does not appear before the Court upon advance service of the petition, the Court may not issue any further notice to such opposite party and may pass any order(s) as it may deem fit and proper in the facts and circumstances of the case.

6. No inherent right of any opposite party to file reply to the petition:-

(a) Where a Civil Miscellaneous (Main) Petition under Article 227 of the Constitution of India or Civil Revision Petition under Section 115 of the Code of Civil Procedure, 1908 is filed, ordinarily the same may be decided on the basis of the grounds raised in the petition and the record filed with the same.

(b) No opposite party as a matter of right shall be entitled to file a reply to such petition. The opposite party shall however during the course of hearing be entitled to produce copies of any relevant record intended to be relied upon. In exceptional circumstances, the Court may permit an opposite party to file a reply to such a petition.

7. Strict Compliance:-

All the Officers and Dealing Assistants at the Filing Counter shall ensure strict compliance of the above directions. The petition shall not be listed by the Registry if the same does not comply with these directions.

These Practice Directions shall come into force w.e.f. 15.12.2019.

By Order
Sd/-
(DINESH KUMAR SHARMA)
REGISTRAR GENERAL