

THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

NOTIFICATION

No. P. 0102/76- The Honourable the Chief Justice and Judges are pleased to direct that the following amendment be made in the Family Courts (Court) Rules, 1988 framed by the High Court under section 21 of the Family Court Act, 1984 :-

PART I

Substitute the following Rule 5(1) and (2) for the existing Rule 5 of the Family Courts (Court) Rules, 1988:-

5 Institution of Proceedings:-

(1) All proceedings instituted before a Family Court shall be by way of a Petition. In respect of applications under Chapter IX of the Criminal Procedure Code, however the provisions of that Code will apply.

(2) In all the petitions and applications under Chapter IX of the Criminal Procedure Code, where one of the parties claims to be married to the other, the cause title may contain the maiden name as well as the name post marriage, of the parties thereto, if there is a change in the name after marriage.

Provided that where the change in name of a party post marriage, is notified in the Official Gazette, such party shall be arrayed with the name as notified in the Official Gazette, in addition to the maiden name:

Provided further that where a wife has not changed her name after marriage by publishing notice in the Official Gazette, she may continue to mention her maiden name.

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PART II

Substitute the following Rule 19 (1) and (2) for the existing Rule 19 of the Family Courts (Court) Rules, 1988.

19. of service of summons:- (1) Save in cases provided for in Sub-Rule (2) and unless the Court shall otherwise order, the Service of a Summons to appear and answer shall be proved by the Vakalatnama having been filed or when no Vakalatnama has been filed, by evidence showing that the Summons was served in the manner provided by the Code of Civil Procedure. Such proof shall ordinarily be by the affidavit of the bailiff and (as to such matters as the bailiff cannot speak to of his knowledge) of the person who attended the bailiff for the purpose of identification at the time of

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service or of such other person or persons as can speak to the identity of the person served or to other matters necessary to be proved in respect of the service.

(2) In case where the petitioner and respondent reside at one and the same address, in addition to the proof of service as provided by Sub-Rule (1), the Court shall direct the party, desiring to establish proof of service of Writ of Summons, to file an affidavit, precisely indicating the date, time and mode of service of Writ of Summons upon the opponent and the service of Writ of Summons shall not be deemed to have been proved unless such affidavit is filed.

PART III

Add the Sub-Rule (B) and (C) of Rule 44 after the Sub-Rule (A) of Rule 44 of the Family Courts (Court) Rules, 1988.

44. Pronouncement of Judgement/ Final Order :- (B) (1) In all proceedings, on conclusion of hearing, the Court shall inform the parties, the date of pronouncement of judgement and final order.

(2) The Court shall endeavor to pass the judgement/final order, on the date fixed under Sub-Rule (1), in the presence of the parties.

(3) The parties to such proceedings, shall remain present in the Court on the date, fixed under Sub-Rule (1) to hear the pronouncement of judgement/final order:

Provided that, this rule shall not apply to the parties who ordinarily reside beyond the territorial limits of India:

Provided further that the Court may in an appropriate case, for sufficient exempt any party from appearance in the Court, to hear the pronouncement of judgement/final order, and shall record reasons for granting such exemption.

Copy of divorce decree to be served upon the parties:- (C) In all cases in which, the marriage is dissolved by a decree of divorce, ex-parte or otherwise, the Court shall serve a certified copy of the decree upon the parties to the proceedings, by registered post acknowledgment due, within 15 days from the date of passing of the decree.

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