

An Act to amend the Civil Procedure Code

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows :

Short Title

1.. This Act shall be cited as the Civil Procedure Code (Amendment) Act, No..... of 2011

Replacement
of
Section 27 of
Chapter 101

2.. Section 27 of the Civil Procedure Code (Chapter 101) (hereinafter referred to as the principal enactment) is hereby repealed and the following section, substituted therefor:-

**“Appointment of
registered Attorney**

27. (1). The appointment of a registered attorney to make any appearance or application, or to do any act as aforesaid, shall :-

- (a) contain an address at which service of any process under the provisions of this Chapter may be served on such registered attorney, instead of the party whom he represents ; and
 - (b) include an electronic mail address if any, to which service of any process, notice and any other relevant information may be served on a registered attorney.
- (2) Where an appointment under subsection (1) is not by a legal person or a corporate sole, a memorandum, shall also be submitted substantially in the form set out in the First Schedule to this Code, and the provisions of section 393 shall apply in regard to the filing of such Memorandum
- (3). When so filed, an appointment of a registered attorney shall be in force until -
- (a) the client revokes it in writing with the leave of the court and after notice to the registered attorney by a writing signed by the client and filed in court,
 - (b) revoked by the registered attorney in writing signed by the client and filed in Court;
 - (c) revoked by the registered attorney with leave of the court having given thirty days notice to the client;
 - (d) the client dies ;
 - (e) the circumstances enumerated in section 28 takes place ; or
 - (f) all proceedings in the action are ended and judgment satisfied so far as regards the client.
- (4). No counsel shall be required to present any document

empowering him to act. The Attorney-General may appoint a registered attorney to act specially in any particular case or to act generally on behalf of the State.

Insertion of new section 27A in the principal enactment

3. The following new section is hereby inserted immediately after section 27 of the principal enactment and shall have effect as section 27A of that enactment :-

“Appointment of pre trial Judge 27A. The Judicial Service Commission shall wherever it deems necessary, nominate a judicial officer in respect of a judicial district as a Pre trial Judge of the District Court of that Judicial District (hereinafter referred to as “the pre trial Judge”).

4. Section 29 of the principal enactment is hereby amended as follows :

- (1). by the renumbering of that section as sub section (1) thereof.
- (2). by the addition immediately after the renumbered sub section (1) thereof, of the following subsections which shall be numbered as sub sections (2) and (3) of that section:-

“ (2). Service of any process, notice or any other document at the address given under paragraph (a) of subsection (1) of section 27 or sent to the electronic mail address given under paragraph (b) of sub-section (1) of section 27 shall be deemed to be sufficient delivery to the party who has appointed the registered attorney, unless the court otherwise directs.

“ (3). Service of process, notice or any other document at the address given under sub-section (2) of section 27 shall be deemed to be sufficient delivery to the nominee or nominees appointed thereunder.”

Insertion of new Chapter XA in the principal enactment

5. The following new chapter is hereby inserted immediately after Chapter X of the principal enactment and shall have effect as Chapter XA. of that enactment :-

“CHAPTER XA PRE-TRIAL

Date for pre-trial proceeding

79A. Forthwith on the expiration of the time allowed for the filing of the defendant’s answer , or, where a replication is permitted, on the last day of the time allowed for the filing of that replication, and

whether the same is filed or not, the court shall appoint a date not earlier than three weeks and not exceeding two months from such date for pre-trial hearing to be commenced, either in the presence of all parties to the action or such parties as are present, on being satisfied that the absent parties have been duly notified of the proceedings.

Admissions and Issues 79B. Parties shall tender their proposed admissions' and issues in writing to the court registry, 14 days prior to the date fixed for the pre-trial hearing with the proof of service by the submission of a copy of such admissions and issues to all other parties.

Advancement or postponement of pre-trial hearing 79C. The Pre trial Judge may either on his own motion or on the application of any party and for sufficient cause shown, advance or postpone the date fixed for the pre-trial hearing.

Provided that the Pre trial Judge shall conclude the hearing within three months from the commencement of such hearing, unless the Pre Trial Judge is prevented from doing so for reasons to be recorded by him and no adjournment in excess of four weeks may be granted, except in exceptional circumstances.

When parties fail to appear 79D. If any party fails to diligently prosecute his or her case or if on the day fixed for the pre-trial hearing or on any other day to which it is adjourned, the parties or any one of them fail to appear, the Pre trial Judge may, taking into consideration all appropriate circumstances proceed to dispose of the action in one of the methods specified in Chapter XII of this Code or make such other order as he may think fit. In the event, the Pre trial Judge proceeds to dispose of the action adopting any one of methods specified in Chapter XII, the provisions of that Chapter, shall mutatis mutandis apply to and in regard to such proceedings.

Pre-trial 79E. At the pre-trial hearing, the Pre trial Judge shall have power to question the parties or call upon them to state their respective cases with a view to –

- (a) ascertaining jurisdictional issues,
- (b) elucidating the matters in dispute,
- (c) enabling the parties to amend the pleadings if the pleadings are defective;

- (d) obtaining admissions of facts and of documents which will avoid unnecessary proof and delay;
- (e) consolidating two or more pending cases;
- (f) identifying the number of witnesses based on admissibility and relevancy inclusive of expert witnesses;
- (g) appointing a court Expert ;
- (h) assisting the parties to arrive at an adjustment, settlement, compromise or other agreement, with regard to the matter in issue in such action and may, for that purpose, suggest terms of settlement which in his view are reasonable, having regard to all the circumstances of the case; and
- (i) ascertaining and recording any other matters which would be helpful in the speedy disposal of the action, and to take all steps and make all such orders as may appear to him to be necessary or desirable, for the expeditious and inexpensive disposal of the action.

Certain steps to be pre-trial steps 79F. . All steps under sections 15,16,18 to 23, 94, 109, 416 to 417A, 420 to 436, 440A and 440B, shall be considered as pre trial steps for the purpose of this Chapter.

Pre trial Judge may make orders 79G. At the pre-trial, the Pre trial Judge may exercise the powers conferred on him by section 79E and shall make such orders as to him may appear appropriate including;

- (a). an order to have any question of fact determined by a written report from a person having special and independent knowledge of that fact;
- (b). an order for the issue of a commission under Chapter XXIX of the Code inclusive of an order for the appointment of an independent expert to inquire and report on any question of fact or opinion; and
- (c). an order to issue certified copies of any documents in the custody of any public office or public corporation, a Provincial Council or any local authority;

Matters which Pre trial Judge shall record 79H (1). At a pre-trial, the Pre trial Judge shall record :

- (a) the admissions by the parties of facts or documents or contents of documents;

- (b) the agreement of the parties in regard to any matter;
- (c) the agreement of parties to accept and to abide by :-
 - (i) any decision or determination of the judge arrived at in any manner or in such manner as may be agreed upon between the parties and entering of judgment in accordance with such decision or determination ;
 - (ii) any decision or determination of the judge on any or all issues of fact or law and entering of the judgment in accordance with such decision or determination at an appropriate stage;
- (d). any agreement of the parties :
 - (i). with regard to the mode of proof of any fact or document;
 - (ii). as to the number of witnesses to be called
 - (iii). to consolidate two or more pending actions;
- (e). withdrawal of actions ; and
- (f). adjustment, settlement or compromise of actions.

(2). A decision or determination referred to in sub-paragraph (i) and (ii) of paragraph (c) of subsection (1), shall for all purposes be considered to be final and conclusive as between such parties :

Provided that when the Pre trial Judge records an agreement of the parties under paragraph (c) of sub-section (1) the Pre trial Judge shall also read out and explain the effect of such agreement to the parties concerned and record the fact that the parties do understand the contents of such agreement and the effect thereof. The parties shall be required to sign the agreement.

Pre trial Judge to decide on variance

79I. At the Pre trial hearing, issues may be determined in a manner provided in section 146 having taking into consideration draft issues submitted under section 79B.

Pre trial Judge may

79J. Where the Pre trial Judge is of the opinion that the issues

adjourn framing of issues

cannot be correctly framed without the examination of some persons not at the pre trial proceedings, or without the inspection of some documents not produced in the action, the provisions of section 148 of the Code shall *mutatis mutandis* apply in framing the issues.

When pre trial steps have been taken, date to be appointed.

79K. (1). After the issues are settled, and –
(a) on the Parties informing the pre trial Judge that all the pre trial steps had been taken; and

(b) where the pre trial Judge is satisfied that all such pre trial steps have in fact been taken by the Parties,

the pre trial Judge shall forthwith appoint a date within 14 days of such date for the case to be called in order to fix the date of trial of the action in the trial court.

Replacement of section 80 of the principal enactment

6. Section 80 of the principal enactment is hereby repealed and the following section is substituted therefor:

Fixing date of trial

80.(1) On the date fixed for the case to be called to fix the date of trial of the action in the trial court, the court shall appoint a date for the trial of the action and shall give notice thereof in writing by registered post to all parties who have furnished a registered address and tendered the cost of service of such notice as provided by subsection (2) of section 55.

Insertion of new section 80A

7. The following new section is hereby inserted immediately after section 80 of the principal enactment and shall have effect as section 80A of that enactment.

80A(1) On or after the date fixed for the trial of the action, no application for pre-trial steps shall be allowed, unless the court is satisfied for reasons to be recorded by the court that a grave and irremediable injustice would be caused if such steps are not permitted. In such event, the court may impose such terms as to costs or otherwise as it thinks fit against the party who makes such application.”.

(2) . Where the issues upon which the trial of the action is to proceed have been settled by the Pre trial Judge , no amendment thereto shall be made at the trial, save in special circumstances and unless the court is satisfied that a refusal to permit such amendment would result in manifest injustice to the party applying for the amendment

- (3). Where issues both of law and facts arise in the same action, the court may try those issues of law first as provided in section 147 of this Code.

Substitution of section 149 in the principal enactment

8. Section 149 of the principal enactment is hereby repealed and the following new section substituted therefor

Consolidation of actions 149. (1) Two or more actions in which the questions of law or fact in issue are substantially the same, may be consolidated by order of the court, upon such terms as the court may deem fit and on the agreement of Parties.

(2). The Court may if it thinks fit, order several actions to be tried at the same time and on the same evidence, or the evidence in one action to be used as evidence in another, or may order one of several actions to be tried and other actions to be stayed to abide by the result, with the consent of the parties.

Provided that on the application of any party the court shall have the power to try another of the actions so stayed where the selected action fails to be a real trial of the issues involved.”

Insertion of new section 151A in the principal enactment

9. The following new section is hereby inserted immediately after section 151 of the principal enactment and shall have effect as section 151A of that enactment :-

“Affidavit may be Substituted

151A. (1) Notwithstanding the provisions of section 151, the court may, on its own motion or at the request of one of the parties to the action, order that an affidavit be substituted for an oral examination in chief of a witness and direct the party calling such witness to tender such affidavit on a date fixed by the court which date shall be at least ten days prior to the date of trial, to enable the opposite party to prepare for the trial.

(2) Where an order is made by the court under subsection (1), the party who is responsible for tendering the affidavit shall tender it together with the documents referred to therein, to the Registrar of the court with the proof of service of a copy of the affidavit with copies of all documents to the opposite party.

(3) On the date of the trial, the party tendering the affidavit shall produce the affidavit through the witness who has affirmed to or sworn to it, including all documents referred to therein. The opposite party is entitled to object to its being received, either on the inadmissibility of such evidence or a part of the evidence or on the inadmissibility or authenticity of any documents annexed to such affidavit. In such an event, the court may make a ruling on such objection, prior to the witness being cross examined by the opposite party.

Provided that where the court is of the opinion that oral evidence should be led, the court may, in appropriate circumstances, permit the leading of oral evidence, in addition to the evidence contained in the affidavit.

(4). If an affidavit contains evidence of matters of hearsay or any matter which is scandalous, the court may order deletion of such matters and may proceed with the rest of the matters in the affidavit or may order the party who filed such affidavit to tender a fresh admissible affidavit and the party filing such inadmissible affidavit shall be liable to the payment of costs.”

Replacement
of
Sections 393
to 398
of the
principal
enactment

10. Sections 393 to 398 (both inclusive) of the principal enactment are hereby repealed and the following new sections substituted therefor:-

Memorandum

393 (1) A party who nominates (hereinafter referred to as the “nominator party”) by a Memorandum filed under subsection (2) of section 27, shall nominate at least one person and not more than three persons, in order of preference, to be his legal representative for the purposes of the action, in the event of his death pending the final determination of the action.

Provided that the court may in the event the memorandum is not filed at any time before the final determination of an action, on its own motion or on the application made by any party, require a party to the action or any person required to file a memorandum under the provisions of this Code, to file such memorandum on or before a date appointed for such purpose by the court. In the event of failure to file such memorandum the court may impose an appropriate penalty on the defaulting party.

(2) (a) One of such persons nominated under subsection (1) shall, in the order of preference in which his name is set out in the memorandum, be deemed to be the legal representative of the party for the purposes of the action, in the event of the death of the nominator party, pending the final determination of the action.

(b). In the event of the death or incapacity of the legal representative whose name is set out in the memorandum, the person next nominated in order of preference shall be deemed to be the legal representative for the purposes of the action, in the event of the death of the nominator party, pending the final determination of the action.

(c) The person or persons nominated as legal representative or legal representatives shall subscribe his or their signatures to the memorandum, signifying consent to be so appointed. The signatures of the nominator party and those of the nominee or nominees consenting to be appointed, shall be witnessed by an Attorney-at-law or a Justice of the Peace or a Commissioner of Oaths :

(3). A nominee may at any time with notice to the nominator party, apply to court by way of a motion to withdraw his consent to be such nominee and in such event the court shall make order that he ceases to be the nominee of the nominator party and shall cause the name of such nominee to be struck off the memorandum filed by the nominator party.

(4). Subject to the provisions of subsection (1) of this section, a nominator party may at any time before the final determination of the action, make an application with notice to the nominees, to tender a fresh memorandum nominating one or more nominees. On the filing of such new memorandum, the previous memorandum of such nominator party shall stand revoked and the nomination contained in such fresh memorandum shall forthwith take effect.

394 (1) On the death of a nominator party, the person whose name appears first in the memorandum filed by the nominator party in order of preference, shall be deemed to be the legal representative of such nominator party, for the purposes of the action from the time of his death.

(2). The legal representative of a deceased nominator party shall be entitled to take all such steps for the purposes of the action as the deceased nominator party would have been entitled to take, had he been alive, if the cause of action survives the death of the deceased nominator party.

(3). (a) A nominee shall not decline to act as the legal representative of a deceased nominator party. He may however with the leave of the court first had and obtained, by way of petition and after giving notice to the other nominees if any, of such nominator party, apply for permission from court to be released from the office of legal representative of such nominator party and such application may be made not later than two months from the date of the death of the nominator party.

(b). In the event of the court granting such permission to be released from the office of legal representative, the nominee who is next in order of preference in the memorandum filed by the nominator party, shall be deemed to be the legal representative of such deceased nominator party, for the purposes of the action.

(c). Where an application under paragraph (a) of this subsection is made by a nominee who is the sole nominee or the sole remaining nominee of a deceased nominator party, such nominee shall notify the heirs of such deceased nominator party regarding his application and in the event of the court granting permission as aforesaid, the court shall appoint an heir of such deceased nominator party to act as the legal representative of such deceased nominator party, for the purposes of the action.

395. (1) Notwithstanding that a nominator party has failed to file a memorandum under the provisions of this section, and no appointment of a legal representative has been made to represent the estate of such deceased party, any judgment or decree entered in the action or any order made or thing done in the action, shall be deemed to be valid and effective and in conformity with the provisions of this Code and shall bind the legal heirs and representatives of such deceased party. Further the failure to file a memorandum shall not be a ground for invalidating the proceedings in such action.

(2) On the death of a party to the action who had failed to file a memorandum as required by this section, any party to the action may apply to court by an ex parte application by way of petition supported by an affidavit, requesting that an executor or administrator or in the case of an estate which is below the administrable value, the next of kin who have adiated the inheritance of the deceased party be substituted in the place of such deceased party and the court may, on being satisfied that such appointment is necessary, and the cause of action survives on the death of such party, shall appoint such person. The person appointed shall be bound by proceedings that have already taken place, up to the time of such appointment:

Provided that the person appointed and made a substituted party in the action, may object that he is not the executor or administrator or in the case of an estate which is below the administrable value, the next of kin who have adiated the inheritance of the deceased party or make any defence appropriate to his character as such representative.

Application to have legal representative removed.

396. (1) (a) An executor or administrator or in the case of an estate which is below the administrable value the next of kin who have adiated the inheritance of the deceased party apply to court to have the legal representative of such deceased nominator removed and to have a person named in such application or the person next named in order of preference in the memorandum filed by the deceased nominator, be appointed as such legal representative. The person who for the time being is the legal representative of the deceased nominator, shall be made a respondent to such application.

(b). The court may, upon being satisfied that it is in the interests of an executor or administrator or in the case of an estate which is below the administrable value the next of kin who have adiated the inheritance of the deceased party may remove such legal representative and appoint the person next named in order of preference in the memorandum filed by the deceased nominator party or if there are sufficient grounds for doing so, appoint the person named in the application, as the legal representative of the deceased nominator party.

(c). An application under this sub-section shall be by way of petition and affidavit and the

court may in its discretion, issue notice of the application to the other heirs, if any, of the deceased nominator / party.

(2). No proceedings shall be postponed or adjourned nor any step in the action postponed by reason of the death of a nominator party required to file a memorandum under this section.

(3). For the purposes of this Chapter, "legal representative" means, a person who represents the estate of a deceased party or person, for the purposes of the action, by virtue of a nomination made in a memorandum filed under subsection (1).

Court to make order that action do proceed

397. If there be more than one plaintiff or defendant and any of them dies, and if the right to sue on the cause of action survives to the surviving plaintiff or plaintiffs alone, or against the surviving defendant or defendants alone, the court shall on ex-parte application by petition supported by affidavit, make an order to the effect that the action do proceed at the instance of the surviving plaintiff or plaintiffs, or against the surviving defendant, or defendants, as the case may be.

Legal representative to be made a substituted plaintiff

398. If there are more plaintiffs than one and anyone of them dies, and if the right to sue does not survive to the surviving plaintiff or plaintiffs alone, but also survives on them and the legal heirs of the deceased plaintiff jointly, the court may cause the legal representative of the deceased plaintiff to be made a substituted plaintiff in the place of the deceased plaintiff, and shall thereupon cause an entry to that effect to be made on the record and proceed with the action.

Legal representative may apply to have name entered.

398A. In case of the death of a sole plaintiff or sole surviving plaintiff, the legal representative of the deceased may, where the right to sue survives, apply to the court to have his name entered on the record in place of the deceased plaintiff, and the court shall thereupon cause an entry to that effect to be made on the record and proceed with the action.

Where no application is made by the legal representative of a deceased plaintiff

398B. If no application is made to the Court by any legal representative of a deceased plaintiff within two months from the death of such plaintiff, the court may make an order that the action shall abate, and award to the defendant the costs which he may have incurred in defending the action, to be recovered from the estate of the deceased plaintiff. However, the court may, if it thinks it appropriate, on the application of the defendant, made any time after the death of the plaintiff, and upon such terms as to costs or otherwise as it thinks fit, make an order appointing the legal representative of the deceased plaintiff, in the place of the deceased plaintiff for the purpose of proceeding with the action in order to arrive at a final determination of the matter in dispute.

Legal representative of deceased sole plaintiff to apply to be made the plaintiff

398C. (1). If there be more defendants than one, and any one of them die before entering a decree and the right to sue on the cause of action does not survive against the surviving defendant or defendants alone, without substitution of the legal representative of the deceased defendant and also in case of the death of a sole defendant, or sole surviving defendant, where the right to sue survives to the plaintiff, the plaintiff may apply to the court to appoint the legal representative of the deceased defendant in place of such deceased defendant for the purpose of the continuance of the action. The Court shall thereupon, enter the name of such legal representative

on the record in the place of the deceased defendant, and shall issue notice on such legal representative to appear on a day to be therein mentioned, to defend the action.

(2). The legal representative of a deceased defendant nominated in the memorandum, may apply to have himself made a defendant in place of the deceased defendant, and the provisions of this section, in so far as they are applicable, shall apply in respect of such application and to the proceedings and consequences ensuing thereon.”

Repeal of section 405 of the principal enactment

11. Section 405 of the principal enactment is hereby repealed.

Insertion of new sections 440B and 440C in the principal enactment

12. The following new sections are hereby inserted immediately after section 440A of the principal enactment and shall have effect as section 440B, 440C and 440D of this enactment :-

Obtaining copies of documents maintained by any public office, corporation etc.

“ 440B. (1) Where a party to any proceedings in a civil court requires for the purpose of such proceedings a certified copy of any document, or of any register either deposited or maintained or kept in the custody, (or a certified copy of any register or book) maintained in the ordinary course of business, at any public office a public corporation, statutory body Provincial Council or any local government authority in the ordinary course of business, the Pre trial Judge or the court, as the case may be may upon application made in that behalf by a party by motion supported by affidavit affirming the relevancy of such certified copy in the proceedings direct the officer in charge of such office, Public corporation, body established by law or statute, Provincial Council, Provincial Ministry or a Local Authority, as the case may be to issue such certified copy. Upon production of the order of court or Pre trial Judge and upon payment of the relevant charges, such party shall be entitled to obtain a certified copy of the document concerned.

(2). A certified copy obtained by a party under sub-section (1) from any Public Office, public corporation, body established by law or statute, Provincial Council, Provincial Ministry or Local Authority, relevant to any proceeding by such party may, without an officer from the Public Office, public corporation, Provincial Council or Local Government Authority concerned being called as a witness, be produced in such proceeding in proof of the fact that such document was made or such document is in the custody of such Public Office, Public Corporation, body established by law or statute, Provincial Council, Provincial Ministry or any Local Government Authority concerned and be prima facie proof of the contents therein.

Provided , however that the court may of its own motion or upon application made by any party to such proceedings require the production of the original document and permit any such party to examine it or require that the officer who is in charge of keeping or maintaining such document be summoned as a witness.

Proof of document unnecessary unless it is impeached

440C (1) Notwithstanding anything to the contrary in this Code or any other law, it shall not be necessary to adduce proof of any document which is, ex facie, an original document or a certified copy issued by a public office, body established by law or statute , a public corporation, Provincial Council, Provincial Ministry or any Local authority , unless the authority of such document is impeached by the opposing party for reasons to be recorded and for such reasons, the court may require proof thereof;

(2). Where the genuineness of any document is impeached by a party, such party shall state the reason for impeaching its genuineness and the court shall record the same.

(3). In the event that the court, after evidence is lead as to the proof of the document, accepts the document, the party who impeached the document shall be liable to pay incurred cost of proving the document, in addition to taxed costs, unless the court for good reason directs otherwise.

Public Corporation not to include Bank

440D. In section 440B and 440C “public corporation” shall not include a “Licensed Commercial Bank” or a “Licensed Specialized Bank” within the meaning of the Banking Act.”

Insertion of section 456 A in the principal enactment

14. The following new section is hereby inserted immediately after section 456 of the principal enactment and shall have effect as section 456A of that enactment:-

“Where public Officer is a Party to any action

456A (1). Where a public officer is made a party to any action in his official capacity, such officer shall be referred to by his official designation only (and not by his name) and it shall accordingly be sufficient to describe such public officer in the caption by reference to his official designation or the office held by him, omitting reference to his name. If a respondent cannot be sufficiently identified in this manner, his name may be disclosed in the averments in the pleadings.

- (2). No such action shall be dismissed on account of any omission, defect or irregularity in regard to the name, designation, description or address of such party, if the court is satisfied that such party has been sufficiently identified and described, and has not been misled or prejudiced by such omission, defect or irregularity. The court may make such order as it thinks fit in the interests of justice, for amendment of pleadings, fresh or further notice, costs or otherwise in respect of any such omission, defect or irregularity.
- (3). (a). Where an action is filed in respect of an act or omission done in his official capacity by a public officer who has thereafter ceased to hold such office, such application may be made and proceeded with against his successor, for the time being, in such office, such successor being made a defendant, by reference to his official designation only, in terms of sub section (2).

(b). If such an action has been instituted against a public officer, who has been made a party by reference to his official designation (and not by name), in respect of an act or omission in his official capacity and such public officer ceases to hold such office, during the pendency of such application, such application may be proceeded with against his successor, for the time being in such office, without any addition or substitution of party, a fresh proxy, or the issue of any notice, unless the court considers such addition, substitution, proxy or notice to be necessary in the interests of justice. Such successor will be bound, in his official capacity by any order made, or directive given, by the court against, or in respect of such original party.

(c). Where such an action has been made against a public officer who has been made a party by reference to his official designation (and not by name), and such public officer ceases to hold such office after the final determination of such action but before complying with the judgment, order made or direction given therein, his successor, for the time being in such office shall be bound by and shall comply with such judgment, order or directive.
- (4). The provisions of sub-sections (4)(b) and (4)(c) shall apply to any action already instituted against a public officer, in respect of an act or omission in his official capacity, even if such public officer is described in the caption both by name and by reference to his official designation.
- (5). Nothing in the provisions of this section shall be construed as imposing any personal liability upon a public officer in respect of the act or omission of any predecessor in office
- (6). In this section “ceases to hold office” means ceasing to hold office by

reason of death, retirement, resignation or any other manner.

16. (1) All actions and matters which have been filed in the District Court but in respect of which no date has been fixed for trial shall also be subject to the provisions of as on the date of coming into operation of this Act, Chapter XA of the principal enactment inserted by section 2 of this Act.

17. The First Schedule to the principal enactment is hereby amended as follows:-

(1) by the insertion, immediately after Form No. 7 thereof, of the following Form which shall have effect as Form No. 7A of that enactment :-

FORM 7A

FORM OF MEMORANDUM NOMINATING LEGAL REPRESENTATIVE (Sections 27 and 393)

In the District Court of
Action No.....

I,(the Plaintiff /Defendant / Petitioner / Respondent / Party seeking to be added / substituted) hereby nominate :

Preference No. 1.....(name) of (address)
2.....(name) of (address)
3.....(name) of (address)

as my legal representative for the purpose of the action in the event of my death before the final determination of this action and I hereby further request that they be appointed in the order of the preference given above as my legal representative for the purposes of the action in the event of my death as aforesaid.

1. I,of consent to the above appointment.

.....
Signature

I, ofbeing an Attorney-at-Law / Justice of the Peace / Commissioner of Oaths certify that the abovenamed person having read over and understood the contents of this memorandum / to whom the contents of this memorandum were read and explained by me / placed his signature in my presence at On this day of 20.....

.....
Signature,
Attorney-at-Law / Justice of the Peace / Commissioner of Oaths

2. I, of consent to the above appointment.

.....
Signature

I, of being an Attorney-at-Law / Justice of the Peace / Commissioner of Oaths certify that the above named person having read over and understood the contents of this memorandum / to whom the contents of this memorandum were read and explained by me / placed his signature in my presence at on thisday of 20.....

.....
Signature

Attorney-at-Law / Justice of the Peace / Commissioner of Oaths

3. I, of consent to the above appointment.

.....
Signature

I, of being an Attorney-at-Law/ Justice of the Peace / Commissioner of Oaths certify that the above named person having read over and understood the contents of this memorandum / to whom the contents of this memorandum were read and explained by me / placed his signature in my presence at on this day of 20.....

.....
Signature

Attorney-at-Law / Justice of the Peace / Commissioner of Oaths

Pending actions to be subject to this Act

Signature :

(Plaintiff / Defendant / Party / Claimant / Necessary Party / Added / Substituted Party)

I, of Being an Attorney-at-Law / Justice of the Peace / Commissioner of Oaths certify that the above named person having read over and understood the contents of this memorandum / to whom the contents of this memorandum were read and explained by me / placed his signature in my presence at on this day of 19

.....
Signature

Amendment of the First Schedule to the principal

enactment

- (2) by the repeal of the form of Decree (No 41) appearing therein and the substitution of the following form therefor :-

Section 188

FORM OF DECREE

COURT
NUMBER OF ACTION
PLAINTIFF (S)
DEFENDANT (S)
DATE OF JUDGMENT
AMOUNT OF DEBT COMPENSATION, INTEREST OR OTHER RELIEF GRANTED BY THIS DECREE (SPECIFY THE PARTY IN WHOSE FAVOUR AND THE PARTY AGAINST WHOM THE RELIEF IS GRANTED)
AMOUNT OF COSTS PAYABLE: Rs...../
COSTS TO BE TAXED
DESCRIPTION OF THE PROPERTY, (IF ANY) (THE DESCRIPTION CAN BE WITH REFERENCE TO THE DESCRIPTIO IN ANY PLEADING OR DOCUMENT FILED OF RECORD)
SIGNATURE OF THE JUDGE
SEAL

