



# ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರ

ಅಧಿಕೃತವಾಗಿ ಪ್ರಕಟಿಸಲಾದುದು

ವಿಶೇಷ ಪತ್ರಿಕೆ

ಭಾಗ - IV-A

ಬೆಂಗಳೂರು, ಶುಕ್ರವಾರ, ಡಿಸೆಂಬರ್ ೨೯, ೨೦೦೬ (ಪುಷ್ಯ ೮, ಶಕ ವರ್ಷ ೧೯೨೮)

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**Law, Justice and Human Rights Secretariat**

**Notification**

**No. LAW 293 LAC 2005, Bangalore, Dated 29th December, 2006.**

Whereas the draft of the following rules which the High Court of Karnataka proposed to make was published as required by sub-section (1) of Section 122 of the Code of Civil Procedure, 1908 (Central Act 5 of 1908) in Notification No. LAW 293 LAC 2005 dated 18.3.2006 in Part IVA of the Karnataka Gazette dated 18.3.2006 inviting objections or suggestions from the persons likely to be affected thereby and notice was given that the said draft rules will be taken into consideration on or after thirty days from the date of its publication in the Official Gazette.

And whereas, the said copy of the Gazette Notification was made available to the public on 18.3.2006.

And whereas, no objections or suggestions have been received to the said draft rules by the High Court of Karnataka.

Now, therefore, in exercise of the powers conferred by Section 89 and Section 122 read with Section 126 of the Code of Civil Procedure, 1908 (Central Act 5 of 1908) and with prior approval of the State Government, the high Court of Karnataka hereby makes the following rules, namely:-

**1. Title and commencement.**- (1) These rules may be called the Code of Civil Procedure (Amendment) (Karnataka) Rules, 2005.

(2) They shall come into force from the date of their publication in the Official Gazette.

**2. Amendment of First Schedule.**-

In the First Schedule to the Code of Civil Procedure,-

(1) in Order V.-

(i) in rule 8, after sub-rule (5), the following shall be inserted, namely:-

"(5A) Whenever orders on deemed service are required to be made on the basis of endorsement of such service or refusal under this rule, the person effecting service shall file an affidavit in the language known to him stating, inter alia, as to who were all present at the time of service. The Court, on consideration of such affidavit, shall pass orders as to deemed service.

(5B) If the contents of an affidavit filed under sub-rule (5A) are found to be false, the deponent can be summarily tried and punished for perjury and the concerned courier company can be black-listed."

(ii) after rule 12, the following shall be inserted, namely:-

**"12A. Service of summons/notices on authorised agents of local bodies, statutory bodies, corporations and autonomous bodies.**-

The District Judge in consultation with the local bodies, statutory bodies, corporations and autonomous bodies within the jurisdiction of the district shall prepare a panel of their respective authorised agents empowered to accept service of summons/notices in the suits, appeals and other proceedings initiated against such local bodies, statutory bodies, corporations

and autonomous bodies, on their behalf which shall be deemed as valid service."

(2) in Order VI, in rule 15, in sub-rule (4), after the words "his pleadings", the following shall be inserted, namely:-

"further, on amendment of the pleadings, a fresh affidavit has to be filed in consonance thereof."

(3) in Order VII, in rule 14, in sub-rule (4), for the words "plaintiff's witnesses", the words "defendant's witnesses" shall be substituted.

(4) in Order IX, in rule 5, for sub-rule (1), the following shall be substituted, namely:-

**"(1) Dismissal of suit where plaintiff after summons returned unserved fails for seven days to apply for fresh summons.-"**

Where, after a summons has been issued to the defendant, or to one of several defendants, and returned unserved, the plaintiff fails, for a period of seven days from the next hearing of the suit to apply for issue of a fresh summons the Court shall make an order that the suit be dismissed as against such defendant, unless the plaintiff within the said period satisfied the Court that,-

(a) he has failed, after using his best endeavour to discover the residence of the defendant who has not been served, or

(b) such defendant is avoiding service of process, or

(c) there is any other sufficient cause for extending the time, in which case the Court may extend the time for making such application for such period as it think fit."

(5) in Order XVIII, in rule 4, after sub-rule (8), the following shall be inserted, namely:-

“(9) Whenever a Commissioner is appointed by the Court to record evidence to ensure safe and proper custody of documents entrusted to the Commissioner, the Court shall retain a set of photostat copies of such documents which are certified to be true copies by the Judge.”

(6) in Order XXA, in rule 1, after sub-rule (f), the following shall be inserted, namely:-

“(g) Cost awarded under sub-rule (a) to (f) shall have to be actual or reasonable cost incurred by the successful party including the loss of income during effective days of hearing, conveyance charges and lodging charges if any.

(h) In case the Court finds that in respect of statutory notice caused under Section 80 of the Code of Civil Procedure, reply given is evasive and vague and has been given without proper application of mind, the Court shall ordinarily award heavy costs, which shall not be less than Rs.3,000/- against the Government or Statutory Body and direct it to take appropriate action against the concerned officer including recovery of costs from him.”

By order and in the name of the Governor of Karnataka,

**E. SHIVANANDA**

Under Secretary to Government (Admn – 1)

Law, Justice & Human

Rights Department