

# **THE GAUHATI HIGH COURT AT GUWAHATI**

(THE HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

## **NOTIFICATION**

**Dated Guwahati, the 26<sup>th</sup> August, 2021**

**HC.XI-04/2021/128/RC:** Pursuant to the directions passed by the Hon'ble Supreme Court of India vide its order dated 22<sup>nd</sup> April, 2021 in Civil Appeal No.1659-1660/2021 (Rahul S. Shah Vs. Jinendra Kr. Gandhi & Ors.), the Gauhati High Court has been pleased to make the following amendments to the Civil Rules and Orders of the Gauhati High Court in the following manner:

**Amendment  
of Chapter  
8 of Part I:**

**"118 A.** In suits relating to delivery of possession, the court must examine the parties to the suit under Order X in relation to third party interest and further exercise the power under Order XI Rule 14 asking parties to disclose and produce documents, upon oath, which are in possession of the parties including declaration pertaining to third party interest in such properties.

**118 B.** After examination of parties under Order X or production of documents under Order XI or receipt of commission report, the Court must add all necessary or proper parties to the suit in terms of Order I Rule 10 of the C.P.C., so as to avoid multiplicity of proceedings and also make such joinder of cause of action in the same suit.

**118 C.** In a suit for payment of money, before settlement of issues, the defendant may be required to disclose his assets on oath, to the extent that he is being made liable in a suit. The Court may further, at any stage, in appropriate cases during the pendency of suit, using powers under Section 151 CPC, demand security to ensure satisfaction of any decree."

**Amendment  
of Chapter  
9 of Part I:**

**"134 A.** The Court must, before passing the decree, pertaining to delivery of possession of a property ensure that the decree is unambiguous so as to not only contain clear description of the property but also having regard to the status of the property."

**Amendment  
of Chapter  
10 of Part I:**

The existing Rule 144 shall be re-numbered as Rule 144(1).

Thereafter:

**"144 (2).** In a money suit, the Court must invariably resort to Order XXI Rule 11, ensuring immediate



execution of decree for payment of money on oral application.

**144 (3).** The Court exercising jurisdiction under Section 47 or under Order XXI of CPC, may not issue notice on an application of third-party claiming rights in a mechanical manner. Further, the Court should refrain from entertaining any such application(s) that has already been considered by the Court while adjudicating the suit or which raises any such issue which otherwise could have been raised and determined during adjudication of suit if due diligence was exercised by the applicant."

**"203 (3).** The Court should allow taking of evidence during the execution proceedings only in exceptional and rare cases where the question of fact could not be decided by resorting to any other expeditious method like appointment of Commissioner or calling for electronic materials including photographs or video with affidavits.

**203 (4).** The Court must in appropriate cases where it finds the objection or resistance or claim to be frivolous or mala fide, resort to Sub-rule (2) of Rule 98 of Order XXI as well as grant compensatory costs in accordance with Section 35A."

**Amendment  
of Chapter  
11 of Part I:**

**"214 (5).** In appropriate cases, where the possession is not in dispute and not a question of fact for adjudication before the Court, the Court may appoint Commissioner to assess the accurate description and status of the property. The cost of the Commission is to be borne by the parties."

**Amendment  
of Chapter  
13 of Part I:**

**"246 A.** In appropriate cases, the Court may, under Order XL Rule 1 of the C.P.C., appoint a Court Receiver to monitor the status of the property in question as custodial legis for proper adjudication of the matter, subject to the application submitted by any party."

The above amendments shall come into effect immediately.

By order,  
Sd/-

Raktim Duarah

**REGISTRAR GENERAL**

Memo No. HC. 04/2021/129-152/RC dated 26.08.2021

Copy to:

1. The Secretary General, Supreme Court of India, New Delhi.



2. The L.R & Secretary to the Govt. of Assam, Judicial Department, Dispur, Guwahati.
3. The Secretary to the Govt. of Nagaland, Department of Justice and Law, Kohima.
4. The Secretary to the Govt. of Mizoram, Law and Judicial Department, Aizawl.
5. The Secretary to the Govt. of Arunachal Pradesh, Law and Judicial Department, Itanagar.
6. The Registrar (Vigilance/Admn./Judicial/Estt.) Gauhati High Court, Guwahati.
7. The Registrar —Cum— Principal Secretary to Hon'ble the Chief Justice, Gauhati High Court, Guwahati
- 8/ The Registrar, Gauhati High Court, Kohima Bench, Kohima/ Aizawl Bench, Aizawl/ Itanagar Bench, Naharlagun. *(He/ She is requested to circulate this Notification among all the District and Sessions Judges of the concerned State.)*
- 9/ The District and Sessions Judge, Kamrup (Metro), Guwahati/Kamrup, Amingaon/Nalbari/Barpeta/Bongaigaon/Dhubri/Kokrajhar/Goalpara/Darrang, Mangaldoi/Udaiguri/Sonitpur, Tezpur/Lakhimpur, North Lakhimpur/Dhemaji/Dibrugarh/Tinsukia/Jorhat/Sivasagar/Golaghat/Nagaon/Morigaon/Cachar, Silchar /Karimganj/ Hailakandi/ Chirang/Karbi Anglong/Dima Hasao/ Baksa/Hojai/Charaideo. *(He/ She is requested to circulate this Notification to the Bar Association of the concerned District.)*
10. The Director, Assam Government Press, Bamunimaidam, Ghy-21, with a request to publish the same in the Assam Gazette.
11. The Joint Registrar, (\_\_\_\_\_), Gauhati High Court, Guwahati.
12. The Administrative Officer, Judicial Academy, Assam.
13. The Deputy Registrar (\_\_\_\_\_ ) Gauhati High Court, Guwahati.
14. The Librarian —Cum— Research Officer, Gauhati High Court, Guwahati.
15. The Asstt. Registrar, \_\_\_\_\_, Gauhati High Court, Guwahati.
16. The Private Secretary to Hon'ble Mr/Mrs. Justice \_\_\_\_\_ Gauhati High Court, Guwahati.
- ✓ 17. The Project Manager/Systems Analyst, Gauhati High Court, Guwahati, for uploading the above notification in the High Court Website.
18. The Administrative Officer (Judicial), \_\_\_\_\_, Gauhati High Court, Guwahati.
19. Secretary, Bar Council of India, 21, Rouse Avenue Institutional Area, Near Bal Bhawan, New Delhi – 110 002
20. The Secretary General, Gauhati High Court Bar Association.
21. The Secretary, All Assam Lawyers' Association.
22. The Secretary, Lawyers' Association, Guwahati.
23. The Secretary, Advocates' Association, Guwahati.
24. The C.A. to the Registrar General, Gauhati High Court, Guwahati.

  
**REGISTRAR GENERAL**