

রেজিস্টার্ড নং ডি এ-১

বাংলাদেশ



গেজেট

অতিরিক্ত সংখ্যা
কর্তৃপক্ষ কর্তৃক প্রকাশিত

সোমবার, সেপ্টেম্বর ২৪, ২০১২

বাংলাদেশ জাতীয় সংসদ

ঢাকা, ২৪ সেপ্টেম্বর, ২০১২/০৯ আশ্বিন, ১৪১৯

সংসদ কর্তৃক গৃহীত নিম্নলিখিত আইনটি ২৪ সেপ্টেম্বর, ২০১২/ ০৯ আশ্বিন, ১৪১৯ তারিখে রাষ্ট্রপতির সম্মতি লাভ করিয়াছে এবং এতদ্বারা এই আইনটি সর্বসাধারণের অবগতির জন্য প্রকাশ করা যাইতেছে ঃ—

২০১২ সনের ৩৬ নং আইন

Code of Civil Procedure, 1908 এর অধিকতর সংশোধনকল্পে প্রণীত আইন

যেহেতু নিম্নবর্ণিত উদ্দেশ্যসমূহ পূরণকল্পে Code of Civil Procedure, 1908 (Act V of 1908) এর অধিকতর সংশোধন সমীচীন ও প্রয়োজনীয়;

সেহেতু এতদ্বারা নিম্নরূপ আইন করা হইল ঃ—

১। সংক্ষিপ্ত শিরোনাম ও প্রবর্তন।—(১) এই আইন Code of Civil Procedure (Amendment) Act, 2012 নামে অভিহিত হইবে।

(২) ইহা অবিলম্বে কার্যকর হইবে।

(১৭৩৪৮১)

মূল্য ঃ টাকা ১২.০০

২। **Act V of 1908** এর **section 89A** এর সংশোধন।—Code of Civil Procedure, 1908 (Act V of 1908), অতঃপর উক্ত Code বলিয়া উল্লিখিত, এর section 89A এর—

(ক) sub-section (1) এর—

(অ) “Artha Rin Adalat Ain, 1990 (Act No. 4 of 1990)” শব্দগুলি, কমা, সংখ্যাগুলি ও বন্ধনীর পরিবর্তে “Artha Rin Adalat Ain, 2003 (Act No. 8 of 2003)” শব্দগুলি, কমা, সংখ্যাগুলি ও বন্ধনী প্রতিস্থাপিত হইবে;

(আ) “the Court may” শব্দগুলির পরিবর্তে “the Court shall” শব্দগুলি প্রতিস্থাপিত হইবে; এবং

(ই) প্রাপ্তস্থিত কোলন এর পরিবর্তে ফুলস্টপ প্রতিস্থাপিত হইবে এবং শর্ত বিলুপ্ত হইবে;

(খ) sub-section (3) এর পরিবর্তে নিম্নরূপ sub-section (3) প্রতিস্থাপিত হইবে, যথা ঃ—

“(3) While referring a dispute or disputes in the suit for mediation under sub-section (1), it shall be for the pleaders, their respective clients and the mediator to mutually agree on and determine the fees and the procedure to be followed for the purpose of settlement through mediation; and when the Court shall mediate, it shall determine the procedure to be followed, and shall not charge any fee for mediation:

Provided that if the pleaders, their respective clients and the mediator fail to determine the fees, the Court shall fix the fees and the fees so fixed shall be binding upon the parties.”;

(গ) sub-section (4) এর পরিবর্তে নিম্নরূপ sub-section (4) প্রতিস্থাপিত হইবে, যথা ঃ—

“(4) Within ten days from the date of reference under sub-section (1), the parties shall inform the Court in writing whom they have appointed as mediator, and if the parties fail to appoint the mediator during this time, the Court shall, within seven days, appoint a mediator from the panel as mentioned in sub-section (10) and the mediation under this section shall be concluded within 60 (sixty) days from the day on which the Court is so informed, or a mediator is appointed by the Court, as the case may be, unless the Court of its own motion or upon a joint prayer of the parties, extends the time for a further period of not exceeding 30 (thirty) days.”;

- (ঘ) sub-section (5) এর পরিবর্তে নিম্নরূপ sub-section (5) প্রতিস্থাপিত হইবে, যথাঃ—

“(5) The mediator shall, without violating the confidentiality of the parties to the mediation proceedings, submit to the court a report of result of the mediation proceedings; and if the result its of compromise of the dispute or disputes in the suit, the terms of such compromise shall be reduced into writing in the form of an agreement, bearing signatures or left thumb impressons of the parties as executants, and signatures of the pleaders, if any, and the mediator as witnesses; and the Court shall, within seven days from receiving the said report, pass an order or a decree in accordance with relevant provisions of order XXIII of the Code.”;

- (ঙ) sub-section (6) এর “make a report and passed order in a manner similar” শব্দগুলির পরিবর্তে “prepare a report and pass an order in the manner” শব্দগুলি প্রতিস্থাপিত হইবে।

৩। **Act V of 1908** এর **section 89C** এর সংশোধন।—উক্ত Code এর section 89C এর—

- (ক) sub-section (1) এর “may” শব্দের পরিবর্তে “shall” শব্দ প্রতিস্থাপিত হইবে;
- (খ) sub-section (2) এর পরিবর্তে নিম্নরূপ sub-section (2) প্রতিস্থাপিত হইবে, যথাঃ—

“(2) In mediation under sub-section (1), the provisions of section 89A shall be followed with necessary changes (mutatis mutandis) as may be expedient.”।

৪। **Act V of 1908** এর নূতন **section 89D** এবং **section 89E** এর সন্নিবেশ।—উক্ত Code এর section 89C এর পর নিম্নরূপ নূতন section 89D এবং section 89E সন্নিবেশিত হইবে, যথা ঃ—

“89D. Special provisions for mediation—The Contesting parties to a suit or of an appeal, pending in any Court before the commencement of the Code of Civil Procedure (Amendment) Act, 2012, may by filing an application stating their willingness to settle the dispute through mediation, such suit or appeal shall be disposed of in accordance with the provision of section 89A or 89C.

89E. Application and commencement of the provisions of sections

89A and 89C—(1) The provision of section 89A or 89C shall be, applied to such area, and commenced on such date, as the government may, by notification in the official Gazette, fix.

(2) Where any mediation process for settlement of dispute in respect of any suit or appeal is pending under section 89A or 89C before the commencement of the Code of Civil Procedure (Amendment) Act, 2012, such mediation shall continue as if the provision of section 89A or 89C were not amended by the Code of Civil Procedure (Amendment) Act, 2012.”।

৫। **Act V of 1908 এর Order V এর সংশোধন**।—উক্ত Code এর Order V এর—

(ক) rule 1 এর sub-rule (1) এর পরিবর্তে নিম্নরূপ sub-rule (1) প্রতিস্থাপিত হইবে, যথাঃ—

“(1) **Summons.**—When a suit has been duly instituted a summons shall be issued by the officer of the Court appointed in this behalf to the defendant within five working days from the date of filing the suit to appear and answer the claim on a day to be therein specified:

Provided that if the officer of the Court fails to issue the summons within the said period of time, he shall be liable for misconduct:

Provided further that no such summons shall be issued when the defendant has appeared at the presentation of the plaint and admitted the plaintiff’s claim.”;

(খ) rule 9 এর পরিবর্তে নিম্নরূপ rule 9 এবং rule 9A প্রতিস্থাপিত হইবে, যথাঃ—

“**9 Delivery or transmission of summons for service.**—(1) Where the defendant resides within the jurisdiction of the Court in which the suit is instituted, or has an agent resident within that jurisdiction who is empowered to accept the service of the summons, the summons shall, unless the Court otherwise directs, be delivered or sent either to the proper officer to be served by him or one of his subordinates or through courier service enlisted by the District Judge under sub-rule (4).

(2) The proper officer may be an officer of a Court other than that in which the suit is instituted, and, where he is such an officer, the summons may be sent to him by post or in such manner as the Court may direct.

(3) The Court may, in addition to the service of summons under sub-rule (1), on the application of the plaintiff for the issue of a summons for the appearance of the defendant, also direct the summons to be served by means of transmission of documents through fax message or electronic mail service by the plaintiff at his own cost.

(4) The District Judge shall prepare a list of courier services (to be updated from time to time) for the purposes of sub-rule (1), and shall inform all the Civil Courts under his administrative jurisdiction about the list.

(5) When a summons is sent to the proper officer or the courier service, he or it shall serve the summons within thirty days from the date of receipt of summons and shall inform the Court in this regard :

Provided that, if the proper officer or the courier service fails to serve the summons within the said period of time, that officer shall be liable for misconduct and in the case of courier service, the District Judge shall exclude it from the list prepared under sub-rule (4).

9A. Summons given to the Plaintiff for service.— (1) The Court may, in addition to the service of summons under rule 9, on the application of the plaintiff for the issue of summons for the appearance of the defendant, permit such plaintiff to effect service of such summons on such defendant and shall, in such a case, deliver the summons to such plaintiff for service.

(2) The service of such summons shall be effected by or on behalf of such plaintiff by delivering or tendering to the defendant personally a copy thereof signed by the Judge or such officer of the Court-as he may appoint in this behalf and sealed with the seal of the Court.

(3) The provisions of rules 16 and 18 shall apply to a summons personally served under this rule as if the person effecting the service were a serving officer and the plaintiff shall submit a report to the Court accompanied by an affidavit.

(4) If such summons, when tendered, is refused or if the person served refuses to sign an acknowledgment of service or for any reason such summons cannot be served personally, the Court shall, on the application of the plaintiff, re-issue such summons to be served by the Court in the same manner as a summons to a defendant.”;

(গ) rule 15 এর—

(অ) উপাস্তটীকার “male member” শব্দগুলির পরিবর্তে “adult member” শব্দগুলি প্রতিস্থাপিত হইবে; এবং

(আ) “adult male member” শব্দগুলির পরিবর্তে “adult member” শব্দগুলি প্রতিস্থাপিত হইবে;

(ঘ) rule 20 এর sub-rule (1) এর পর নিম্নরূপ sub-rule (1A) সন্নিবেশিত হইবে, যথাঃ—

“(1A) Where the Court under sub-rule (1) pass an order to service the summons by an advertisement in a newspaper, the newspaper shall be a daily newspaper which has circulation in the locality in which the defendant is last known to have actually and voluntarily resided, carried on business or personally worked for gain.”;

(ঙ) rule 21 এর “by post” শব্দগুলির পর “or through courier service as mentioned in sub-rule (4) of rule 9” শব্দগুলি সন্নিবেশিত হইবে;

(চ) rule 24 এর “by post” শব্দগুলির পর “or through courier service as mentioned in sub-rule (4) of rule 9” শব্দগুলি সন্নিবেশিত হইবে;

(ছ) rule 25 এর পরিবর্তে নিম্নরূপ rule 25 প্রতিস্থাপিত হইবে, যথাঃ—

“25. Service where defendant resides out of Bangladesh and has no agent.—(1) Where the defendant resides out of Bangladesh and has no agent in Bangladesh empowered to accept service, the summons shall be addresssed to the defendant at the place where he is residing and sent to him by post or through courier service as mentioned in sub-rule (4) of rule 9, if there is postal communication between such place and the place where the Court is situate.

(2) The Court may, in addition to the service of summons under sub-rule (1), on the application of the plaintiff for the issue of a summons for the appearance of the defendant, also direct the summons to be served by means of transmission of documents through fax massage or electronic mail service by the plaintiff at his own cost.”;

(জ) rule 26A বিলুপ্ত হইবে;

(ঝ) rule 30 এর পর নিম্নরূপ rule 31 সংযোজিত হইবে, যথাঃ—

“31. Service of summons when completed.—If the Court is satisfied that the summons has been served by any of the modes as is mentioned in this Order, it shall be deemed that the summons has been duly served.”।

৬। **Act V of 1908 এর Order VI এর সংশোধন।**—উক্ত Code এর Order VI এর rule 17 এর প্রাপ্তস্থিত ফুলস্টপ এর পরিবর্তে কোলন প্রতিস্থাপিত হইবে এবং অতঃপর নিম্নরূপ শর্তাংশ সংযোজিত হইবে, যথাঃ—

“Provided that no application for amendment shall be allowed after the trial has commenced, unless the Court is of opinion that in spite of due diligence, the party could not have raised the matter before the commencement of trial:

Provided further that if an application for amendment is made after the trial has commenced and the Court is of opinion that the application is made to delay the proceedings, the Court shall make an order for the payment to the objector such cost by way of compensation as it thinks fit.”।

৭। **Act V of 1908 এর Order VIII এর সংশোধন।**—উক্ত Code এর Order VIII এর rule 1 এর sub-rule (1) এর পরিবর্তে নিম্নরূপ sub-rule (1) প্রতিস্থাপিত হইবে, যথাঃ—

“(1) The defendant shall, within thirty working days from the date of service of summons upon him, save as provided in the proviso to sub-section (2) of section 80, present a written statement of his defence:

Provided that where the defendant fails, for reasonable grounds, to file the written statement within the said period of thirty working days, he shall be allowed to file the same on such other day, as may be specified by the Court, for reasons to be recorded in writing, but which shall not exceed sixty working days from the date of service of summons:

Provided further that if the defendant fails to file the written statement within the said period of sixty working days, the Court shall dispose of the suit *ex parte*.”।

৮। **Act V of 1908** এর **Order IX** এর সংশোধন।—উক্ত Code এর Order IX এর rule 5 এর—

- (ক) উপাস্তটীকার “three months” শব্দগুলির পরিবর্তে “one month” শব্দগুলি প্রতিস্থাপিত হইবে; এবং
- (খ) sub-rule (1) এর “three months” শব্দগুলির পরিবর্তে “one month” শব্দগুলি প্রতিস্থাপিত হইবে।

৯। **Act V of 1908** এর **Order XI** এর সংশোধন।—উক্ত Code এর Order XI এর rule 2 এর “shall be submitted to the Court” শব্দগুলির পরিবর্তে “shall be submitted to the Court and that Court shall decide within fourteen days from the date of filing of the said application” শব্দগুলি প্রতিস্থাপিত হইবে।

১০। **Act V of 1908** এর **Order XII** এর সংশোধন।—উক্ত Code এর Order XII এর rule 2 এর “to admit any document” শব্দগুলির পরিবর্তে “to admit, within fifteen days from the date of service of notice, any document” শব্দগুলি ও কমাগুলি প্রতিস্থাপিত হইবে।

১১। **Act V of 1908** এর **Order XIV** এর সংশোধন।—উক্ত Code এর Order XIV এর rule 4 এর “may adjourn the framing of the issues to a future day” শব্দগুলির পরিবর্তে “may adjourn the framing of the issues to a day not later than fifteen days” শব্দগুলি প্রতিস্থাপিত হইবে।

ভীম চরণ রায়
অতিরিক্ত সচিব (এইচআর)।