



# **BRIDGING THE GAP: COURTS AND MASSES**

**RESEARCH WING**

Peshawar High Court,  
Peshawar

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ



أَنَّ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ:  
أَفْضَلُ الصَّدَقَةِ أَنْ يَتَعَلَّمَ الْمَرْءُ الْمُسْلِمُ عِلْمًا،  
ثُمَّ يُعَلِّمَهُ أَخَاهُ الْمُسْلِمَ .

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**The Prophet (P.B.U.H) said:**

**The best of charity is when a Muslim man gains knowledge,  
then he teaches it to his Muslim brother.**

## **DISCLAIMER**

**This Handbook is a guide for the general public and more particularly the litigants. It may not be considered as a legal advice. The templates in this Handbook are designed to facilitate the process of law, however, may not be considered as a substitute for the templates available in the Code of Civil Procedure or other statutes.**

## **FOREWORD**

Litigation, particularly in developing countries is a labyrinthine and laborious affair. A considerable chunk of the litigants is at a loss to follow the requirements and their attendant modalities. Most of them suffer for want of necessary knowledge of the relevant procedures and legal intricacies involved.

Peshawar High Court has taken several measures to facilitate the public in their access to justice. The present hand book is another milestone in that direction. The handbook is not a substitute of legal advice which is the function of advocates, but a guide to familiarize the litigants with broad spectrum of litigation comprising civil, criminal, family, rent and other components entailing complex legal processes and to make them aware of their rights and responsibilities. The issues have been dealt with comprehensively to facilitate/afford a thorough understanding of their import from the legal perspective and stakes of the parties to disputes. To illustrate, templates have been given to share information regarding drafting of different types of pleadings for clarity of purpose.

It was a massive task entrusted to a 3-member committee that made concerted efforts to accomplish the job effectively and efficiently within a short span of time. The committee members, particularly Ms. Irum Nosheen, Research & Reference Officer, deserve applause for taking pains in compiling the handbook which is likely to serve as a useful and lasting tool in handling litigation by those lacking legal background.

**Khawaja Wajih ud Din**

**Registrar Peshawar High Court**

## **AUTHOR'S NOTE**

The fabric of modern life is nicely poised and law covers the whole field of human activities. The administration of law and justice is something which touches all walks of life. The laws and procedures in our country are complicated; the system of delivery of justice is complex and obscure for the litigants. Absence of legal awareness results in deception, exploitation and deprivation of the rights of the public. Legal awareness can enable people to demand justice, accountability and effective remedies at all levels.

Countries like ours which have already lagged behind in the race of progress have to re-orient their attitudes and systems with immense speed so as to retain their claim for survival with honor and dignity. Transparency, accountability and reliability are universally recognized principles for good governance. Access to information is essential for bringing in transparency in the system. If the people are aware of their rights and duties provided under the law, their ability to identify violations and to seek enforcement of laws will be enhanced.

With the aim and objective to provide quick and inexpensive justice to the public at large, the Peshawar High Court initiated different measures like establishment of e-KIOSK, SMS and e-mail alert system, virtual hearing of cases, and facility of getting the attested copies of the orders from the districts. District Judiciary Monitoring & Evaluation Policy 2020-2025 was also launched with the purpose to ensure clearance of backlog, expeditious disposal of cases, transparency and accountability in the system. It was the desire of the late Hon'ble Chief Justice, Mr. Justice Waqar Ahmed Seth to provide transparent, efficient and effective legal services to the litigants. Under the able guidance of Worthy Registrar Peshawar High Court, Khwaja Wajihud Din, a Committee was constituted for the compilation of a handbook for the convenience of the litigants. Mr. Dost Muhammad, the then Director Regulation and Mr. Aftab Javed, Senior Research & Reference Officer were tasked to develop templates of pleadings while I was assigned the responsibility of compiling the remaining part of the handbook.

The present incumbent, Hon'ble Chief Justice, Mr. Justice Qaiser Rashid Khan was pleased to continue with the policy. The Registrar Peshawar High Court assiduously monitored the progress and provided guidelines from time to time.

Undoubtedly, the compilation of the handbook was a hectic task during which I received a great deal of help from the two committee members. The book has been designed to provide basic information as to legal framework of the country, working of the courts, procedures, and responsibilities of the judges, staff and other stakeholders. It also provides information as to ancillary services. The objective was to facilitate every citizen and particularly the inhabitants of the Province of Khyber Pakhtunkhwa for Judicial Good Governance.

The book has eight chapters with focus on the procedures followed in court. At the outset the explanation of a few terms, often used, may be helpful to the reader. The scheme followed for the reader's understanding is that after a brief description of the procedures outside court, a stage-by-stage explanation of the cases has been provided, beginning with proceedings before a Civil Judge or Judicial Magistrate and ending with proceedings before the august Supreme Court of Pakistan. The questions formulated at the end of various chapters provide light lest the new entrant in the field may fall into pitfall with consequences to be lamented later on. In order to keep the book within a manageable size I have felt compelled to focus on the explanation of the procedures through flow charts and to shorten the descriptive material.

I am grateful to Mr. Kaleem Arshad, Additional Registrar (Judicial) who had read and commented on the templates developed by the two committee members and had given us the benefit of his years of experience. I am particularly thankful to Mr. Zia-ur-Rehman, Additional Registrar (Legal) who, as supervisor of the Research Wing, thoroughly reviewed the draft of the hand book and provided his guidance and support for finalization of the same.

**Irum Nosheen**  
**Research & Reference Officer**  
**Peshawar High Court**

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## CHAPTER 1

## GLOSSARY OF WORDS

1	<b>Advocate</b>	A person authorized under Legal Practitioners & Bar Council Act to represent person/litigant in court.
2	<b>Advocacy</b>	The work or profession of an advocate. The act of pleading for or actively supporting a cause or proposal. <sup>1</sup>
3	<b>Ad interim Injunction</b>	Ad interim means temporary. <sup>2</sup> An order passed by a court restraining or directing a person to refrain from doing or to do an act for a maximum period of 14 days, which may be extended from time to time till the decision of application for temporary injunction.
4	<b>Affidavit</b>	An affidavit is a statement of fact voluntarily made by an affiant or deponent under an oath or affirmation which is administered by a person who is authorized to do so by law. <sup>3</sup>
5	<b>Case</b>	A civil or criminal proceeding, action, suit or controversy at law. <sup>4</sup>
6	<b>Cause List</b>	A schedule of pending cases.
7	<b>Civil Case</b>	A case which relates to private rights and remedies that are sought by action or suit, as distinct from criminal proceedings. <sup>5</sup>
8	<b>Civil Court Deposit</b>	Civil Court Deposit Accounts relate to all deposits other than those which may be included in Sheriffs Petty Accounts. The examples of Civil Court Deposits are decretal amounts, Pre-emption amount etc.

<sup>1</sup>Black's Law Dictionary, Ninth Edition, Page 64

<sup>2</sup> Black's Law Dictionary, Ninth Edition, Page 46

<sup>3</sup><https://en.wikipedia.org/wiki/Affidavit>

<sup>4</sup> Black's Law Dictionary, Ninth Edition, Page 243

<sup>5</sup> Black's Law Dictionary, Ninth Edition, Page 279

9	<b>Court Fee</b>	<p>The court fee is the amount paid in stamp duty for the purpose of collection of revenue for exchequer.</p> <p>The Court Fee is in the form of Stamp Tickets or Stamp Papers.</p>
10	<b>Court Order</b>	Any formal decision of the Court.
11	<b>Criminal Case</b>	A case about whether someone is guilty of a crime and, if so, how he/she should be punished.
12	<b>Cross-examination</b>	The examination of the witness upon a trial or hearing or upon taking a deposition, by the party opposed to the one producing him, upon his evidence given in chief to test its truth to further develop it or for other purposes <sup>6</sup> .
13	<b>Counterclaim</b>	A claim for damages or another remedy by a defendant against a person who has sued him.
14	<b>Damages</b>	Money paid to one party by the other to compensate for a wrong. Damages can be ‘liquidated’ where they are easily calculated or ‘un-liquidated’ where they are less easily calculated, for example compensation for pain, suffering and injury.
15	<b>Decree</b>	A formal expression of decision of a court of law.
16	<b>Diet Money</b>	An amount paid to the witness for his appearance in the Court.
17	<b>Discovery</b>	Notifying, and exchanging with the other party documents which are or have been in possession, custody or control of one party and which are relevant to the case and are not protected or privileged.
18	<b>Execution</b>	The actual implementation of the order of the Court except criminal court.
19	<b>Ex-parte Decree</b>	A decision given in a case other than criminal in the absence of the opposite party.
20	<b>Ex-parte Proceedings</b>	Proceedings initiated in the absence of the opposite party in a civil case.

<sup>6</sup> Black’s Law Dictionary, Ninth Edition, Page 433

21	<b>Evidence</b>	<p>All statements which the Court permits or requires to be made before it by witnesses, in relation to matters of fact under inquiry, such statements are called oral evidence.</p> <p>All documents produced for the inspection of the Court, such documents are called documentary evidence.<sup>7</sup></p>
22	<b>Guardian ad litem</b>	A relative or friend who defends a case on behalf of a person under a disability i.e defendant.
23	<b>Hearsay Evidence</b>	Evidence based not on a witness's personal knowledge but on another's statement <sup>8</sup> e.g what he heard from any other person.
24	<b>Investigation</b>	Investigation includes all the proceedings for the collection of evidence conducted by a Police Officer or by any person (other than a Magistrate) who is authorized by a Magistrate in this behalf. <sup>9</sup>
25	<b>Interlocutory Application</b>	An application which has to be decided by a Judge before the final decision in case.
26	<b>Judgment</b>	The Judge's decision and his or her reasons for making it.
27	<b>KIOSK</b>	KIOSK means an information desk.
28	<b>Legal Representative</b>	The person who in law represents the estate of deceased person or on whom the estate devolves upon the death of the party suing or sued. <sup>10</sup>
29	<b>Litigant</b>	A person who is party in a case.
30	<b>Litigant in person</b>	A person who is a party in a case and does not have a lawyer.
31	<b>Minor</b>	<p>A person less than 18 years of age.<sup>11</sup></p> <p>(Age bracket can be different in different laws).</p>

<sup>7</sup> Article 2 (c) of the Qanoon-e-Shahdat Order, 1984

<sup>8</sup> <https://www.merriam-webster.com/dictionary/hearsay%20evidence>

<sup>9</sup> Section 4 (l) of the Criminal Procedure Code, 1898

<sup>10</sup> Section 2(11) of the Code of Civil Procedure, 1908

<sup>11</sup> Section 3 of the Majority Act, 1875

32	<b>Negotiable Instruments</b>	A written instrument that (1) is signed by the maker or the drawer, (2) includes an unconditional promise or order to pay a specified sum of money, (3) is payable on demand or at a definite time, and (4) is payable to order or to bearer. <sup>12</sup>
33	<b>Next Friend</b>	A relative or friend who brings a case on behalf of a person under a disability i.e plaintiff.
34	<b>Party</b>	The plaintiff(s), defendant(s) or third party.
35	<b>Pleadings</b>	Plaint and written statement.
36	<b>Precedent/ Case Law</b>	<p>The making of law by a court in recognizing and applying new rules while administering justice.<sup>13</sup></p> <p><b>Case law</b> is the collection of past legal decisions written by courts and similar tribunals in the course of deciding cases, in which the law was analyzed using these cases to resolve ambiguities for deciding current cases. These past decisions are called "case law", or precedent.<sup>14</sup></p> <p>Under Article 189 of the Constitution of Islamic Republic of Pakistan, 1973 all decisions of Supreme Court are binding on all other courts in Pakistan.</p> <p>Article 201 of the Constitution of Islamic Republic of Pakistan provides that any decision of a High Court shall, to the extent that it decides a question of law or is based upon or enunciates a principle of law, be binding on all courts subordinate to it.</p> <p>Under Article 203 GG of the Constitution of Islamic Republic of Pakistan the decisions of the Federal Shariat Court have binding effect on all the High Courts and the subordinate courts.</p> <p>There are various publishers who publish the reported judgments of the Supreme Court of Pakistan and the</p>

<sup>12</sup> Black's Law Dictionary, Ninth Edition, Page 1136

<sup>13</sup> Black's Law Dictionary, Ninth Edition, Page 1295

<sup>14</sup> [https://en.wikipedia.org/wiki/Case\\_law](https://en.wikipedia.org/wiki/Case_law)

		Provincial High Courts. Law reporting journals published by PLD are commonly used for the purpose of research in Pakistan. Some of the journals published by PLD publications are as follows: <b>PLD</b> Pakistan Legal Decisions <b>SCMR</b> Supreme Court Monthly Review <b>YLR</b> Yearly Law Reports
37	<b>Process Server</b>	A professional who serves summons or notice of a court on the parties and witnesses.
38	<b>Prohibited Degree</b>	The relationship between the persons that make it illegal for them to marry. <sup>15</sup>
39	<b>Proof Beyond Reasonable Doubt</b>	It is the standard of proof in a criminal case which means that the prosecution has to prove the case without existence of reasonable doubt.
40	<b>Proof on the Balance of Probabilities</b>	The standard of proof in a civil case. In civil cases the court has to weigh the evidence of both the parties and decide the case.
41	<b>Rebuttal</b>	Evidence, or a pleading, which tries to show that the other party's evidence and arguments are not accurate.
42	<b>Reply</b>	An answer to an application.
43	<b>Set off</b>	A claim by defendant (s) that the person who sued them owes them an amount of money which should be "set off" against the sum the person is suing them for.
44	<b>Settlement</b>	A solution to a case agreed by the parties.
45	<b>Sheriff Petty Account</b>	All Petty items received for immediate disbursement in full except when they are deposited in courts following the cash system for Civil Court Deposits e.g Sums deposited by parties as the expenses of witnesses, fees of expert witnesses, and commission fees, in civil, criminal and revenue cases and deposits of advertisement charges of newspapers in cases of substituted service.

<sup>15</sup><https://legal-dictionary.thefreedictionary.com/prohibited+degrees>

46	<b>Substituted Service</b>	A method of serving documents which the Court directs where service by ordinary means is impossible e.g. where a party cannot be found or is evading service.
47	<b>Witness</b>	Someone who has seen, heard, or otherwise experienced the events relevant to the case.
48	<b>Witness (expert)</b>	A person with professional qualifications and expertise such as a doctor, engineer, accountant or forensic scientist who can carry out tests, give an expert opinion, or otherwise help the judge to understand what happened, and why it happened.
49	<b>Writ</b>	A petition filed in High Court under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973. An extraordinary remedy available under the law where ordinary remedy is not available.

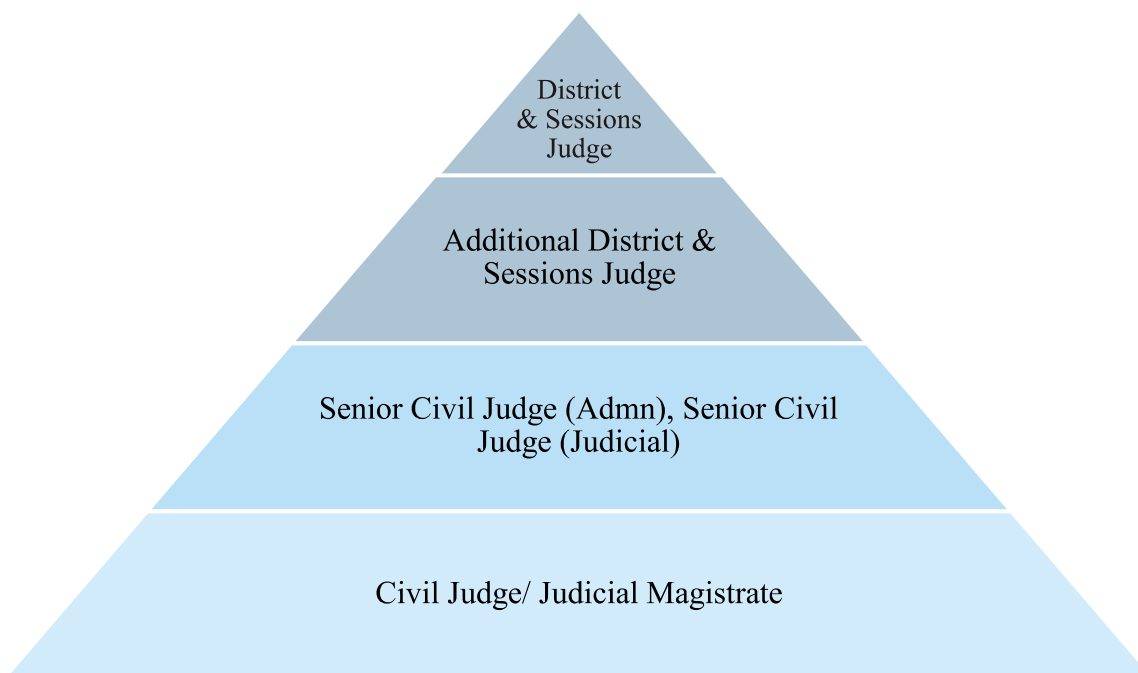


## CHAPTER 2

### DISTRICT JUDICIARY & THE ALLIED STAFF

#### 2.1 ORGANOGRAM OF DISTRICT JUDICIARY

The organogram of the district judiciary is as under:



In every district there is:

- I. One District & Sessions Judge.
- II. One or more Additional District & Sessions Judges.
- III. Senior Civil Judge (Admn).
- IV. Senior Civil Judge (Judicial).
- V. Civil Judges.
- VI. Judicial Magistrates.
- VII. Judge Family Court.
- VIII. Rent Controller.

#### 2.2 SPECIAL COURTS

Special Courts and Tribunals include: Special Courts (Control of Narcotics Substances), Banking Courts, Income Tax Appellate Tribunal, Environmental Tribunal, Insurance

Appellate Tribunal, Customs, Excise & Sales Tax Appellate Tribunal, Special Judges (Central), Drugs Courts, Accountability Courts, Labour Courts, Consumer Protection Courts, Anti-Terrorism Courts, Anti-Corruption Courts, Gender Based Violence Courts and Child Protection Courts. The special courts are created on need basis in the districts.

### **2.2.1 Anti-Terrorism Courts**

Anti-Terrorism Courts exercise their powers under the Anti-Terrorism Act, 1997. The courts mainly deal with the trial of heinous offences relating to terrorist activities and sectarian violence. The law provides a speedy remedy for decision of heinous offences.

### **2.2.2 Banking Courts**

The Banking Courts are the special courts created under the Financial Institution (Recovery of Finances) Ordinance, 2001. It provides summary procedure for the recovery of loans, advances, credits and finances extended by the financial institutions to their borrowers and customers.

### **2.2.3 Consumer Courts**

The Consumer Courts are established under the Consumer Protection Act, 1997. The Consumer Courts have the jurisdiction to deal with the matters relating to the promotion and protection of legitimate interests of consumers and provide speedy redressal of their complaints. The consumer avail services from different service providers e.g WAPDA, School authorities etc. They also purchase goods from the sellers. Consumer has the right to file a complaint to the Consumer Court in case of defective product or faulty service.

### **2.2.4 Drug Courts**

The Drug Courts are established under the Drug Act, 1976. Drug Court deals with the following matters:

1. Export, import, manufacture for sale or sale of spurious drug or any drug which is not registered; or
2. Manufacture for sale of any drug without a license; or
3. Imports without license of any drug for the import of which a license is required;

The law provides punishments for different offences depending upon the nature of offence committed.

### 2.2.5 Labour Courts

There are more than 70 laws relating to labour issues in Pakistan.<sup>16</sup> The Labour Courts mainly deal with disputes relating to Industrial Relations, Employment and Service Conditions, Occupational Safety and Health, Human Resource Development and Labour Welfare.

### 2.2.6 Services Tribunal

The Services Tribunals are created under “The Khyber Pakhtunkhwa Service Tribunals Act, 1974” to deal with matters relating to terms and conditions of service of civil servants, including disciplinary matters.

## 2.3 THE STAFF ATTACHED TO THE COURTS & THEIR DUTIES<sup>17</sup>

### I. Reader

In addition to other duties he performs following duties:

- Preparation of cause list of cases and exhibiting the same in the veranda of Court house one day before date of hearing.
- Giving Parcha Yadashat.
- Signing of summons other than Court of District Judge, if authorized by the Presiding Officer.
- Giving information to the parties and witnesses of the next date in case of adjournment due to unexpected holiday or unexpected absence of Presiding Officer.
- Noting of number of case on application involving a deposit in the Sheriffs’ Petty Account.
- Maintenance of register of dates.
- Maintenance of register of return of documents.
- Maintenance of register of return of plaints.
- Maintenance of register of appointment of commission.
- Maintenance of register of Fine.
- Maintenance of register of stamp deficiencies.
- Daily deposit of Judicial Fines.

### II. Senior & Junior Scale Stenographer

In addition to other duties he performs following duties:

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<sup>16</sup> [https://wageindicator.org/documents/Labour\\_and\\_Employment\\_Law-A\\_Profile\\_on\\_Pakistan.pdf](https://wageindicator.org/documents/Labour_and_Employment_Law-A_Profile_on_Pakistan.pdf)

<sup>17</sup> Judicial Estacode, Edition 2011

- Typing of Judgments and Orders.
- Maintenance of record of the meetings of the Judicial Officer.

### III. **K.P.O/Computer Operator**

In addition to other duties he performs following duties:

- Typing of Judgments and Orders.
- Preparation of automated cause list.
- Evidence recording.
- Preparation of Chronological lists and disposal proformas.

### IV. **Muharar**

In addition to other duties he performs following duties:

- Diary of process fee to be maintained.
- Transmission of record to the High Court and checking of record received from the High Court.
- Consigning of decided cases and registers to record room.
- Maintenance of all relevant Civil & Criminal Registers except those maintained by Reader of court, Civil Nazir, Record Keeper etc.
- Receiving and dispatching all files to and from other courts.
- Maintenance of register of application for inspection of files.
- To maintain a register for receipt of applications and judicial files for copying purpose.
- Handing over copy of concerned document to file fetcher after taking receipt if it is not possible or desirable to hand over the whole file.

### V. **Superintendent Court of District & Sessions Judge**

In addition to other duties he performs following duties:

- Signing of summons if authorized by the District Judge.
- Reception of memorandum of appeals and to see that all appeals, complaints and petitions etc, received in the court are within time and properly stamped with court fee.
- Checking and verification of copies issued by the Sessions courts.
- Receipt of all the dak from other offices and marking to concerned officers.
- General Supervision of the work of staff.

### VI. **Civil Nazir**

In addition to other duties he performs following duties:

- Ensuring proper maintenance of prescribed accounts like Civil Courts Deposit Account, Sheriffs' Petty Account, register of Receipt, Cash Book etc.

- To prepare correspondence regarding the payment of diet money of witnesses and other similar matters.
- Dealing with the service of process outside district.
- To exhibit the fee chargeable on processes in each court.
- Distribution of business amongst process servers.

#### **VII. Naib Nazir**

In addition to other duties he performs following duties:

- Particulars to be noted on process issued.
- Custody of registers.
- Consigning of registers to record room.
- Dealing with road and diet money in outlying court.

#### **VIII. Bailiff**

- Execution of Warrant of arrest, warrant of attachment and warrant of delivery of possession.

#### **IX. Process Server**

In addition to other duties he performs following duties:

- Payment of diet money to witness.
- Service of summons.
- Service of warrant of attachment, arrest and sale only in certain circumstances.

#### **X. Record Keeper**

In addition to other duties he performs following duties:

- Transmission of record to the High Court.
- Maintenance of register for receipt of application and judicial files for copying purpose.
- Maintenance of a running list of all the cases in which copies of judgment have been sent out.
- Direction and supervision of all the current business of receiving and issuing records.
- Entry of all civil & criminal files in the registers and goshwara.
- Attachment of appeal, review, revision and execution files to the original file.
- To see whether proper Court Fee has been realized.
- To see whether stamps affixed to documents etc are genuine.

#### **XI. Copying Agent**

In addition to other duties he performs following duties:

- Sanctioning, acceptance, rejection of application for copies.
- Endorsement of date and time and initialing the endorsement on application.

- Entry of the application in the register and writing S.No. of register with red ink on the reverse of application and grant receipt.
- Cause the application to be made over to the file fetcher for bringing the record.
- To ensure that public has no access to the copyists or the copying room.
- Responsible for regular and proper delivery of copies.
- Recovery of outstanding fee.
- Endorsement of date of delivery and cancellation of stamps.

**XII. Examiner**

In addition to other duties he performs following duties:

- Responsible for examination, revision, paging, certification and stamping of the copies.
- Responsible for endorsement on the copies.
- Responsible for cancellation of defective copies.
- To see that Court Fee Stamps affixed are punched, cancelled and initialled.
- Making an entry as to cause of delay in delivery of copy beyond third day.
- Submission of report about the carelessness of copyist.
- Attestation of the translated copies.

**XIII. Copying Supervisor**

In addition to other duties he performs following duties:

- To keep account of receipts and to maintain the counter foil of receipts, issues and payment orders.
- To maintain register for payments received by money order or through V.P.P.
- Conversion of money received through money order or V.P.P into Court Fee Stamp, affixing the same on application and canceling the Court Fee Stamps.
- The money order and V.P.P coupons to be pasted in a separate guard file.
- To witness all refunds.
- Receive cash payment for the purpose of converting them into Court Fee Stamp.
- Report all complaints and cases of dereliction of duty of staff members to the officer In-charge

**XIV. Government Pleaders**

In cases by or against the Government the office of Advocate General assists the hon'ble High Court and the august Supreme Court of Pakistan. At district level Senior Government Pleaders with the help of Government Pleaders, Additional Government Pleaders and Special Government Pleaders are appointed by the Provincial Government to pursue civil cases by or against departments of the provincial Government. The Government Pleader may also undertake the defense of a suit against a public officer, if authorized by the Government.

In addition to this on criminal side the following officials play an important role in the proceedings of the cases.

### **1. Public Prosecutor**

Prosecutor is a legal officer who represents the state or Government in criminal proceedings.<sup>18</sup> In addition to other duties he performs following duties:

- Prosecution of cases before the courts.
- Calling for record or any other document from any Law Enforcement Agency upon expiry of time for submission of final report.
- Scrutiny of the case file on completion of investigation and referring the shortcomings or faults in investigation to the Head of Investigation for removing or improving the same.
- On receipt of the final report
  - (i) lodging the same before the court for trial; or
  - (ii) withholding the same for want of proper evidence and return it to the Investigation Officer with written direction to resubmit the report after removal of the deficiencies; or
  - (iii) withholding prosecution if reasonable ground exists to believe that the offence is compoundable; provided that if the offence is not compounded within a period of one month, a report shall be lodged in the court of competent jurisdiction for prosecution and trial; or
  - (ii) applying for discharge of the case, if its institution has been found to be malafide, wrongful or weak from evidentiary point of view.<sup>19</sup>

### **2. Naib Court**

- Keeping liaison and transmission of record between court and the police station.
- Custody of the record of the prosecutor and court before submission of final report in the court.

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<sup>18</sup> Black's Law Dictionary, Ninth Edition, Page 1341

<sup>19</sup>Section 4 & 7 of the (Khyber Pakhtunkhwa) Prosecution Service (Constitution, Functions and Powers) Act, 2005.

## CHAPTER 3

### BUSINESS OUTSIDE COURT

#### 3.1 BEFORE INSTITUTION OF SUIT

Before institution of a suit consider whether other remedies are available or not. Sometimes the matter may be resolved by other governmental or private agencies. It is better to explore all those options before filing of your case. Examples of such governmental or private agencies include:

- If your matter relates to correction of record in your educational testimonials first approach the Board or the University authorities.
- If your matter relates to correction of record in your Computerized National Identity Card, then approach the NADRA authorities for redressal of your grievance.
- If your claim revolves around a document which contains an arbitration clause, it is better to resort to the arbitration proceedings in terms of the document.
- If your claim is about correction of revenue record not pertaining to the title claim, you may make recourse to revenue authorities for correction of the same.

#### 3.2 ONCE YOU DECIDE TO APPROACH THE COURT

In the Court premises various sources are available that may help you to reach the Court with proper documents. The details are as follows:

##### 3.2.1 Information KIOSK

An information KIOSK or Facilitation Center is available within the premises of the District Courts to provide you essential information about the location of different courts and the Court proceedings. The District & Sessions Judge may depute a staff member preferably a law graduate to assist the general public.

##### 3.2.2 Website

A website is maintained by the District Judiciary of each district which provides necessary information as to the judges posted in the district, the daily cause list, the judgments, and orders of the Court.



**3.2.3 Paralegal Staff****a. Petition Writer**

Petition Writers are authorized by the District & Sessions Judge of the District to write petition.

Important points to be remembered are:

- The Petition-Writer shall record, at the foot of every petition written by him, other than a petition of a merely formal character, a declaration under his signature that, to the best of his knowledge and belief, the petition expresses the true meaning of the petitioner and that its contents have been fully explained to the petitioner.
- The Petition-Writer will sign and seal with his official seal, every petition written by him, and enter on it the number which it bears in his register, and the fee which has been charged for writing it. Fee rates are notified by the District & Sessions Judge and vary from district to district. In case of non-availability of the rate list the office of the District & Sessions Judge may be contacted.
- The Petition-Writer will rewrite at his own cost any petition written by him when required to do so by order of competent authority.
- A Petition-Writer will not write or cause to be written, any petition on behalf of any party, if he has already written a petition in regard to the same subject matter or proceeding for any opposing party.

**b. Oath Commissioner**

The Oath Commissioners are the lawyers and work under the license issued by the High Court under Section 139 of CPC. Under section 139 (b) of the Code of Civil Procedure, 1908 approximately fifty to sixty legal practitioners at all Divisional Headquarters, thirty-five to forty at all District Headquarters and six to ten at all Sub Divisions are appointed as commissioners for the purpose of administering oaths and affirmations.

The important points to be remembered are:

- No Court-fee or other stamp is required upon an affidavit made for the immediate purpose of being filed and used in any Court or before an officer of any Court under Stamp Act, 1899, Schedule I, Article 4.
- A single affidavit may be prepared for more than one persons but each declarant has to depose separately.

- The Oath Commissioner will keep a receipt in printed form consisting of foil and counterfoil and will hand over foil to you after payment of money.
- Commissioners may charge a remuneration of rupees, **fifty (50)** in cash for each affidavit.
- The above charge will be in addition to any stamp duty payable on the affidavit under the Stamp Act, 1899, Scheduled 1 Article 4.
- The Commissioner will be entitled to an additional fee of rupees **two hundred** if he is required to attend your residence.
- Every person, other than a plaintiff or defendant in a suit in which the application is made, making any affidavit, shall be described in such manner as will serve to identify him clearly; that is to say, by the statement of his full name, the name of his father, **CNIC Number, Mobile Number (if any)**, his profession or trade, and the place of his residence.
- The Oath Commissioner will certify at the foot of the affidavit the fact of the making of such affidavit before him, and will enter the date and subscribe his signature to such certificate, and for the purpose of identification, mark, date, and initial every exhibit in the affidavit.
- A female Pardanashin declarant shall be identified **by her husband or by other relation in prohibitory degree**, and an affidavit of her identity by the person identifying her has to be made before the Oath Commissioner and certified.
- If you are ignorant of the language in which it is written, or you are unable to understand it being illiterate or cannot fully understand the contents of the affidavit the Oath Commissioner will have to read and explain it to you in your language and then certify it after making declaration to this effect at the bottom.
- Every affidavit shall be signed or marked and verified at foot by the declarant and attested by the Oath Commissioner. You will be required to verify the affidavit and sign or mark it.
- The charges are regulated and you may contact the office of District & Sessions Judge for the charges specified.

#### c. Notary Public

A Notary Public is a lawyer and is appointed by the Government. The duty of the Notary Public is to execute documents between people and to execute all those documents which are

required under the law to be notarized. The main functions performed by the Notary Public are under:

- (i) verify, authenticate, certify or attest the execution of any instrument.
- (ii) present any promissory note, hundi or bill of exchange for acceptance or payment or demand better security.
- (iii) administer oath to, or (Solemn attestation of truth or inviolability of one's words-Merriam Webster's Dictionary) take affidavit from, any person.
- (iv) prepare, attest or authenticate any instrument intended to take effect in any country or place outside Pakistan in such form and language as may conform to the law of the place where such deed is intended to operate.
- (v) translate, and verify the translation of, any document from one language into another.
- (vi) any other act which may be prescribed.
- (vii) draw, attest or certify documents, including conveyance of properties, under his official seal.
- (viii) note and certify the general transactions relating to negotiable instruments ; and
- (xii) prepare a will or other testamentary document.

A Notary Public may practice in an area specified in the license issued to him.

The Notary Public will put his signature and official seal on the document and will also grant a receipt for the fees and charges realized by him.

#### **d. Stamp Vendors**

The Stamp vendors are authorized by the Deputy Commissioner to sell stamp papers within the Court Premises. Only licensed stamp vendors are allowed to vend stamps. The stamp vendor cannot demand or accept any consideration exceeding the value of the stamp.

#### **3.2.4 Free Legal Aid**

Upon the directions of the Law & Justice Commission of Pakistan District Legal Empowerment Committees have been established in each District, the Committees may help you in providing aid and assistance in the following areas:

**1. Professional fee / honorarium payable to lawyer;**

**2. Court fee;**

**3. Copying charges;**

**4. Process fee; and**

**5. Any other matter which the Committee may deem appropriate in a particular case, for extending legal aid to the deserving litigant.**

### **Procedure for Free Legal Aid**

The following procedure can be followed for getting free legal aid:

- A litigant both in civil and criminal cases can apply to the Committee in writing on a plain paper addressed to the Chairperson (District & Sessions Judge) or in a manner prescribed by the Committee. The application must be accompanied by the copy of Computerized National Identity Card or other identity document.
- The under trial prisoners or convicted prisoners or any person confined in jail in relation to civil proceedings can forward his/ her application through Superintendent District Jail.
- The court can also refer the case to the committee for provision of free legal aid.

After submission of application the committee will examine the application and decide the matter of eligibility of the applicant for free legal aid, the manner, nature and extent of such aid.

## CHAPTER 4

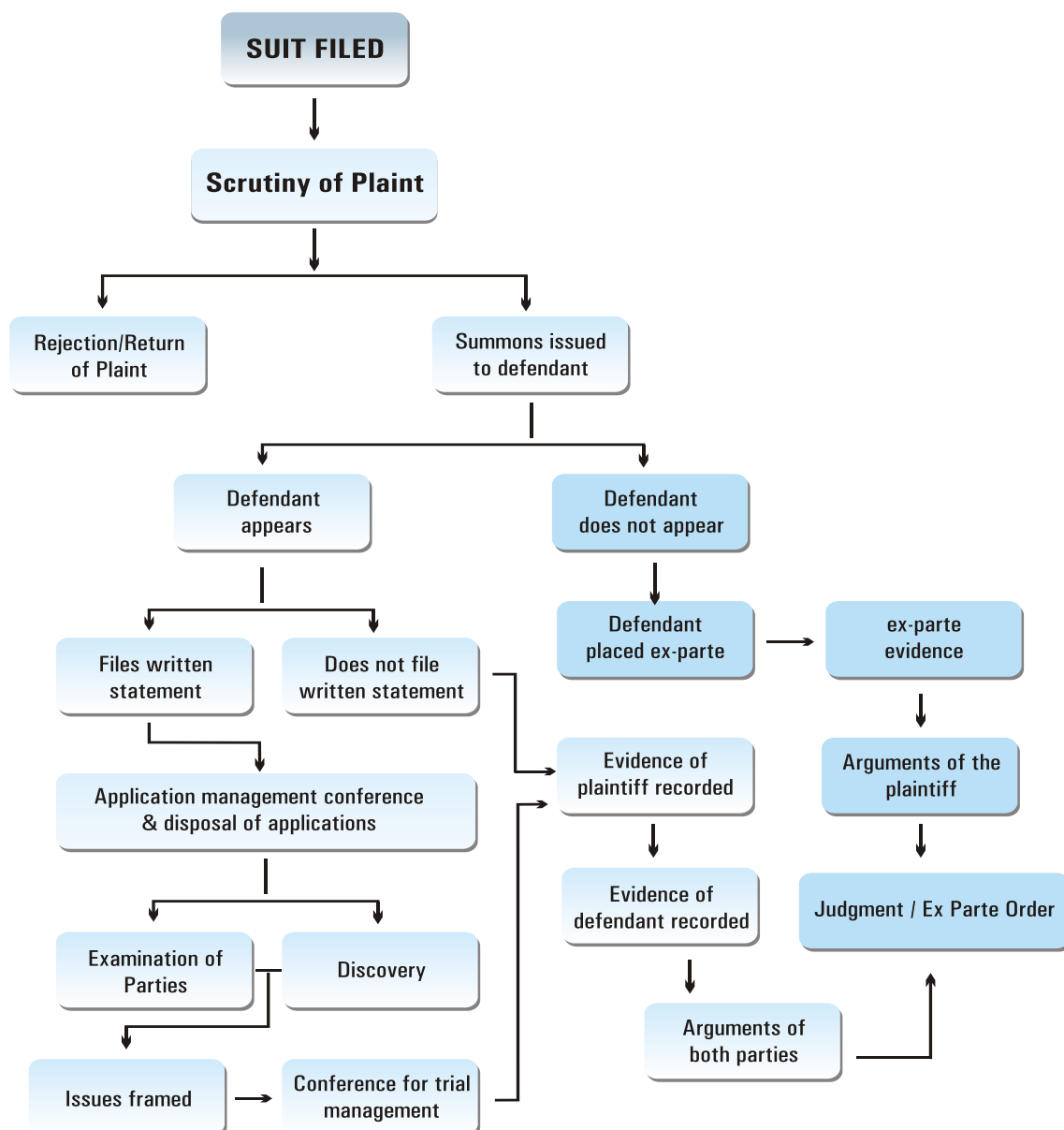
### PROCEEDINGS INSIDE COURT: CIVIL COURTS

#### 4.1 CIVIL JUDGE

In a district the first Court you can approach is the Court of Civil Judge/ Judicial Magistrate. Civil Judge deals with the civil cases while the Judicial Magistrate has the jurisdiction to try cases of criminal nature. Some Civil Judges also work as special judges like Judge Family Court and the Rent Controllers.

#### FLOW CHART OF CIVIL CASE

##### 4.1.1 Stages in a Civil Suit



#### 4.1.2 Part A: Requirements for Being Heard in the Civil Court

To begin with a suit you have to file a plaint, which is a written explanation of your claim with the Court. The party which starts a claim with a plaint is called plaintiff. The party being sued is called the defendant. Both are called litigants.

##### 1. You must have a legal claim!

Before institution of the suit you have to determine that any of your rights recognized under the law has been violated or a person is about to violate any of your rights.

##### 2. You must start your case before the deadline!

The law provides a deadline for bringing a claim. The law is called the Law of Limitation. If you miss the deadline that applies to your case, the Court may dismiss your case even if you are only a day late or in other case the Court may ask you to produce evidence to satisfy that there was sufficient reason for late submission of your claim after which the delay may be condoned.

##### 3. You must be suing in the correct Court!

The power of a Court to entertain a case is called jurisdiction of the Court. The jurisdiction of a Civil Court has to be determined in three areas i.e Pecuniary Jurisdiction, Territorial Jurisdiction and Subject Matter Jurisdiction.

##### **Pecuniary Jurisdiction**

The pecuniary jurisdiction is determined on the basis of valuation of your claim. If you have a claim less than 50 million you will approach the Court of Civil Judge.<sup>20</sup> The law laid down for ascertainment of value of your claim is the Suits Valuation Act, 1887.

##### **Subject Matter Jurisdiction**

The Civil Court is empowered to entertain your claim for declaration of title to the property, for recovery of possession of property, specific performance of contract, permanent injunction and cancellation of document etc. In addition to this you can also bring a claim relating to recovery of money, mesne profits (profits which the person in wrongful possession has actually received or might have received and also includes interest on such profits), damages, and malicious prosecution.

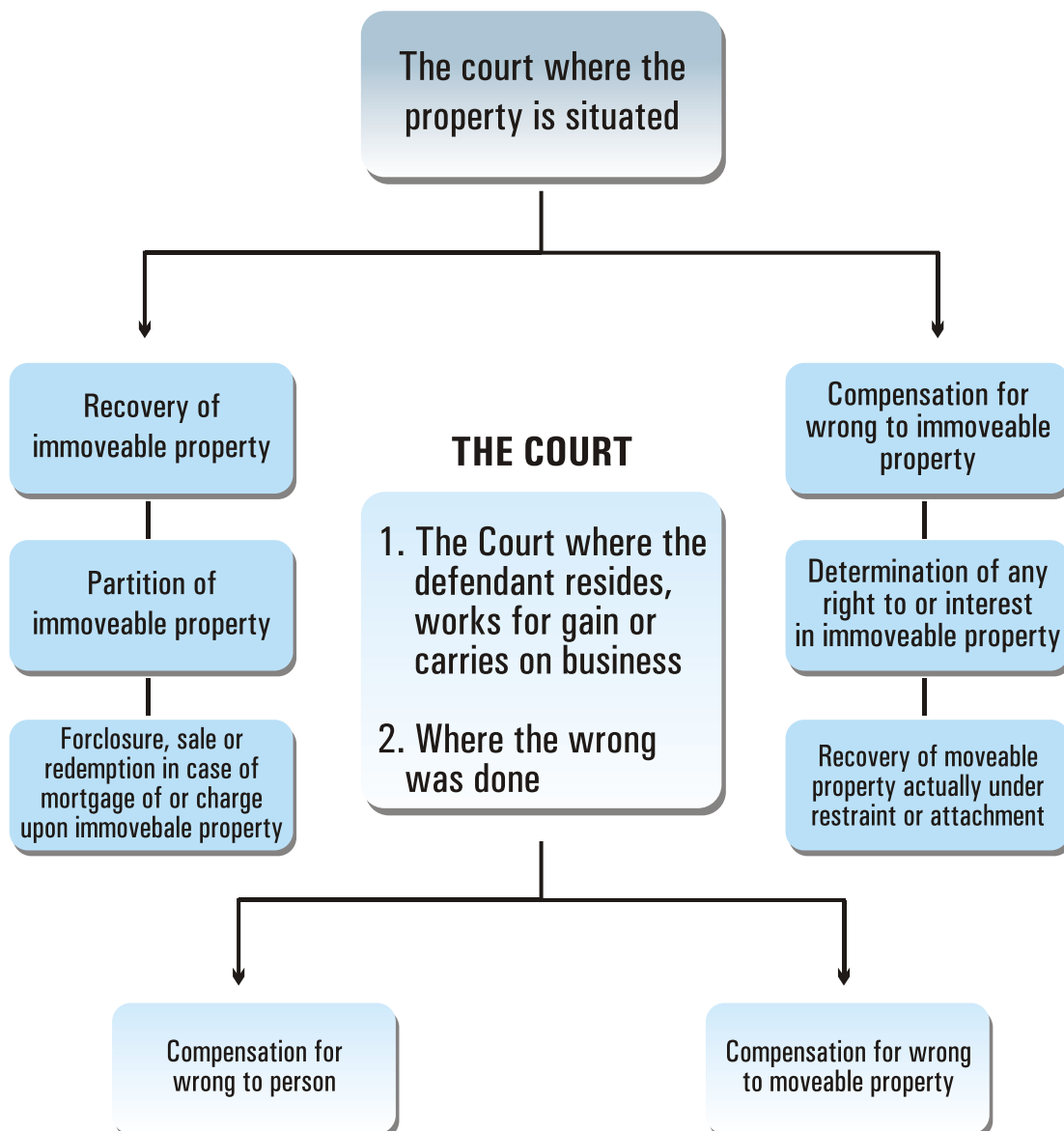
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<sup>20</sup> Section 6 of The Khyber Pakhtunkhwa Civil Procedure Amendment Act, 2020

## Territorial Jurisdiction

Territorial jurisdiction is determined on the basis of place where the defendant resides or the property is situated or the cause of action arises. The territorial jurisdiction of the Court is determined as under:

### FLOW CHART FOR TERRITORIAL JURISDICTION



#### 4.1.3 Part B: How to Draft a Plaintiff?

To begin with a case, you have to file a plaintiff, which is a written explanation of your claim with the Court. A plaintiff gives formal notice of your claim to the defendant and the Court. The plaintiff tells the Court and the defendant how and why you believe the defendant violated the

law. Order 7 of the Code of Civil Procedure Code, 1908 provides details about drafting a plaint.

### **What does a Plaint Look Like?**

Claims and counter claims you submit to the Court are called pleadings. Plaint is one part of pleading. The sample forms for pleadings are available in the Appendix “A” of the Code of Civil Procedure, 1908 and in Appendix attached to this handbook.

### **Requirements for a Plaint**

The plaint may be drafted in the forms provided in the Appendix “A” of the Code of Civil Procedure, 1908. You may also seek guidance from the templates provided in this handbook. Your plaint must contain all your claims and all the persons who have some interest related to the claim must be made party to the suit. You must mention the names and complete addresses of your opponents. The documents which are required to be submitted with the plaint are as under:

- The copies of the documents which are in your possession.
- A list of the documents on which you are placing reliance but are not in your possession.
- As many copies on plain paper of the plaint as there are defendants and two extra copies.
- Draft forms of summons and fees for the service.
- List of your legal representatives.

### **Affixation of Court Fee**

The purpose of affixation of court fee is to secure revenue for the benefits of state. Two Schedules are provided in the Court Fee & Suit Valuation Act; Schedules I and II. Schedule I is merely supplementary to Section 7 of the Act. It is a table which provides how the ad valorem fee (not fixed) prescribed by Section 7 is to be calculated. Schedule II deals with the fixed fee. You will be required to affix requisite court fee on your plaint. If you fail to deposit court fee within the prescribed time, your plaint may be rejected. The law requires that the court fee has to be calculated at the rate of 7.5 % on the amount or value of the subject



matter subject to a minimum court fee of Rs.500/ on all the suits and a maximum of Rs.15000/ irrespective of the value of relief claimed.<sup>21</sup>

In criminal cases no court fee is charged. In family cases the law prescribes affixation of court fee of Rs.15/. In Succession and Letter of Administration cases a minimum court fee of Rs.500/ has to be affixed.

#### **4.1.4 Part C: How to File a Case?**

Once you have drafted a plaint, you must file it with the Court in order to begin your case. The suit begins with the presentation of a plaint. The plaint is to be presented in the Court of Senior Civil Judge (Judicial) who will then mark it to the Court empowered to try it.

##### **In Person Filing:**

Bring the signed original documents to the Court of Senior Civil Judge during Court Hours i.e

**SUMMER: (w.e.f 16<sup>th</sup> April, 2018 to 15<sup>th</sup> October, 2018 both days inclusive).**

##### **Monday to Thursday & Saturday:**

08:00 am to 02:30 pm (with 30 minutes break from 01:00 pm  
to 1:30 pm for Zohar Prayers)

**Friday:** 08:30 am to 12:00 noon.

**Sunday:** Closed.

**WINTER: (w.e.f 16<sup>th</sup> October-2018 to 15<sup>th</sup> April, 2019 both days inclusive).**

##### **Monday to Thursday & Saturday:**

08:30 am to 03:00 pm (with 30 minutes break from 01:00 pm  
to 01:30 pm for Zohar prayers)

**Friday:** 08:30 am to 12:30 pm.

**Sunday:** Closed.

<sup>21</sup> Section 2 of the Khyber Pakhtunkhwa Finance Act, 2011

**4.1.5 Part D: Assignment of Case to Court and Proceedings in the Court:**

After assignment of the case to the Court of competent jurisdiction, the Court concerned will scrutinize your plaint and documents. In case of any deficiency you will be asked to remove the deficiency within the time allowed by it. Your case will be entered in the Daily Cause List and the Daily Diary maintained by the reader and you will be given the next date for hearing of your case. The Reader of the Court will give you a “**ParchaYadasht or ParchaPeshi**” which will be in the following format:

S.No.....,

Suit No.....,

Dated.....,

.....Vs.....,

Adjourned to.....for.....,

Dated.....,

Signature of Presiding Officer

**4.1.6 Part E: Service of Summons**

Once your case is admitted for formal proceedings after initial scrutiny, the Court will pass an order for service of summons upon the defendant/s. The Summons can be for Final Disposal of the case or for Settlement of Issues depending upon the nature of your case. If your case requires summary disposal the Court will issue summon for final disposal.

The summons shall be signed by the judge or any officer as he appoints for the purpose and it must be sealed with the seal of the Court. Where there is more than one defendant these shall be served on each and every defendant personally.

**Mode of Service of Summons:**

The defendant can be served through the following modes:

- By delivering a copy of the summons to the defendant personally.
- By registered post, acknowledgment due.
- By affixation which means affixing a copy of the summons on the outer door or some

conspicuous part of the house in which the defendant ordinarily resides or carries on business or works for gain.

- Electronic device of communication which include telephone, telegraph, telex, fax, radio, television and phonogram.
- Urgent Mail Service or Public Courier Service.
- Beat of drum in the locality where the defendant resides.
- Publication in press.

The Court may use all or any of the means simultaneously.

### **Process Fees**

The process fee is a kind of Court Fee and is chargeable in the form of stamp tickets. It ranges from 50 Paisas to Rs.2/ on each summon or warrant.

The process fee is chargeable in cases where the value of the subject matter of the suit exceeds Rs.25,000/. It is the duty of the Senior Civil Judge to paste the table of process fee outside the court room.

#### **4.1.7 Part F: How to Respond to a Complaint (Filing of Written Statement)?**

When you are served with summons and supplied a copy of complaint, you become defendant in the case. You will be required to submit reply to the complaint. It is important that you respond to the complaint within the deadline given by the Court or else the Court will strike off your right to file written statement and will proceed with the case. If you need additional time to file your written statement, you can make a specific request to the Court.

#### **How To Prepare an Answer To The Complaint?**

The format of your written statement must track the format of the complaint. It should include a numbered response to each numbered paragraph of the complaint. Order 8 of the Code of Civil Procedure, 1908 governs the procedure. Each allegation of fact must be specifically denied and you may also plead new facts. If you do not deny a fact specifically it will amount to admission on your part. You can also claim set off in your written statement in a suit for recovery of money. Sample forms of written statement are available in Appendix “A” to the Code of Civil Procedure, 1908.

**Requirements For Written Statement**

The written statement must be accompanied by the following:

- A statement giving the names and addresses of the persons who in the event of death of the defendant may be made party as his legal representative.
- The name and address of the person who in the event of death of the defendant will intimate the Court.
- The copies of the documents which are in your possession.
- A list of the documents on which you are placing reliance but are not in your possession.

**4.1.8 Part G: Conference for Application Management**

The Court will hold a conference between you and your opponent. The purpose of the conference will be to set a time table for filing of applications by both the parties, replies and the disposal of all the applications.

**4.1.9 Part H: Examination of the Parties and Discovery**

After submission of the pleadings the Court may hear you personally or through your agents or Counsel. The Court may also ask you to produce documents in support of your claim.

**4.1.10 Part I: Summary Disposal of the Case**

If the Court reaches a conclusion that the matter between you and your opponent can be resolved summarily, it may ask you to submit the relevant documents and affidavits in support of your claim. The Court will then with the help of the documentary evidence decide your case through summary judgment.

**4.1.11 Part J: Conference for Trial Management**

If the case cannot be disposed of summarily the Court will reduce the controversy into issues (points of controversy) on which you and your opponent will be required to lead evidence. Conference for trial management is held with the purpose to fix a time for both the parties to produce their evidence. The Court after consulting you about the availability of your witnesses and counsel fix a bracketed schedule for you to produce evidence. You will be required to submit Certificate of Readiness as to production of your evidence and the trial has to be concluded within period of one year from the time of commencement of evidence. The proceedings will then continue on day to day basis.

**4.1.12 Part K: Recording of Evidence**

If you have alleged something you will be asked to produce your witnesses in the Court who will

be cross-examined (put questions) by the counsel/ advocate of the opposite party. You will also be required to present your documents on which you are placing reliance.

After your evidence the defendant/s will be directed to lead his/their evidence and you will be given a chance to cross-examine them.

The following are the stages of the evidence in case:

- Examination-in-Chief.
- Cross-Examination .
- Re-Examination .

### **Important Points For Evidence**

- Evidence must be relevant to the issue being tried.
- A witness will depose about the fact which he or she saw or heard personally.
- The witness is not supposed to reflect his/her opinion, he/ she must depose about the facts and the opinion is not admissible except the opinion of an expert witness.

#### **4.1.13 Part L: Hearing of Arguments**

After conclusion of the evidence of the parties the Court will require you to argue the case and will fix a date not exceeding 30 days<sup>22</sup> for final decision. You or your counsel may also submit written arguments.

#### **4.1.14 Part M: Announcement**

After the arguments the judge will decide the case on the same day or adjourn it to any other day not exceeding 30 days. The Court will then pass a decree.

#### **4.1.15 Part N: Judgment & Decree**

The judge will pronounce the order in the open court which must be dated and signed at the time of pronouncement. Decree will come after the judgment. Decree is the operative part of the judgment in a civil suit.

A decree may be preliminary or final. When a preliminary decree is passed in the case the suit remains pending and you will have to move an application before the Court for getting the final decree.

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<sup>22</sup> Section 26 C of the Khyber Pakhtunkhwa Civil Procedure Amendment Act, 2020

**4.1.16 Part O: Execution**

Execution is the remedy afforded by law for enforcement of the decree. The law provides following modes for execution of a decree.<sup>23</sup>

- By delivery of any property specifically decreed.
- By attachment and sale or by sale without attachment of any property.
- By arrest and detention in prison.
- By appointing a receiver.

**How to Execute the Decree?**

A decree may be executed by an oral or written request to the Court by decree holder. A money decree can be executed through an oral request and the Court may at the time of passing of the decree make an order for immediate execution by the arrest of the judgment debtor.

**Requirements for Written Application**

You can file a written application to the Court after signing and verification. Any other person who is acquainted with the facts of the case can also sign and verify the application for execution of decree. The format for the application is available in Appendix “E” form 6 of the Code of Civil Procedure, 1908. The application must contain the following information:

- Number of the suit.
- Names of the parties.
- Date of the decree.
- Information as to filing of appeal, if any.
- Detailed information as to payment, if any done after the passing of the decree.
- Detailed information as to filing of previous applications, if any.
- The amount with interest, if any due upon the decree.
- The particulars of cross-decree, whether passed before or after the decree sought to be executed.
- The amount of costs, if any awarded.
- Name of the person against whom execution of the decree is sought.
- The mode of execution of the decree.

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<sup>23</sup> Section 51 of the Code of Civil Procedure, 1908

### Stay of Execution

The Court which passed the decree or the Court to which appeal has been preferred may pass an order for stay of execution of the decree.<sup>24</sup> In order to apply for stay of execution you have to satisfy the Court that:

- Substantial loss may result to your interests.
- The application has been moved without unreasonable delay.
- The security on demand by the Court has been given for the due performance of the decree.

You can also apply to the transferee Court for stay of execution of the decree which will ordinarily be allowed to enable you to obtain orders in respect of the decree or execution thereof e.g an application for amendment of the decree.

### Kinds of Decree & Mode of Execution

The law provides following mechanism for execution of different decrees:

S.No	Kind of Decree	Mode of Execution
1.	Money Decree	Detention in prison of the judgment debtor, or by attachment and sale of his property or both.
2.	Decree for Specific Moveable Property	Seizure of the property, if practicable, by delivery of the property to the person, by detention in prison, by attachment of his property or both.
3.	Decree for Specific Performance and Injunction	Detention in prison or by attachment of property or both.
4.	Decree for Immoveable Property	Actual delivery of possession.
5.	Decree for Possession of Joint Immoveable	By affixing a copy of the warrant in some conspicuous place on the property and proclaiming by beat of drum or

<sup>24</sup> Order 41, Rule 5 of the Civil Procedure Code

	Property	at some conspicuous place the substance of the decree (Symbolic possession of the property).
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### **Arrest & Detention**

The Court executing the decree may issue a warrant for the arrest of the person against whom decree has been passed and who is not willing to obey. In case of money decree the process can be adopted on oral request too. The Court may instead of issuance of warrant against the judgment debtor issue a show cause notice to him.

If a decree has been passed against you, on appearance you will be given an opportunity to show cause as to why you should not be detained in prison in case of non-adherence. The Court may also give you time for satisfaction of the decree upon furnishing security. If you fail to satisfy the decree within the given time you will be sent to civil imprisonment for a period of one year. With your detention in prison your liability to pay the decretal amount will not come to an end and the decree can be satisfied from your property.

If you are arrested in execution of a money decree and you pay the amount, the officer of the Court must release you at once. A woman cannot be arrested in execution of a money decree; however, the decree can be executed from her property.

### **Attachment**

Attachment is a protective measure taken by the Court in order to keep the property intact as to ensure for the satisfaction of the decree. If you are the judgment debtor in the case and you are unable to satisfy the decree the Court may proceed for its execution by attachment of your property through actual seizure of the property or by preventing you from its utilization in any manner.

### **Sale**

The executing Court may proceed for the sale of the property which was attached. The sale will be conducted by the officer of the Court or by any person appointed by the Court. If you are the decree holder in the case the sale proceeds or its substantial portion will be paid to you in execution of decree. You being the decree holder can also participate in the sale proceedings and can purchase the property. The purchaser of the property will have to immediately deposit 25 % of the amount of purchase money. However the Court may dispense with the requirement if the property is purchased by the decree holder. After



completion of sale the Court will issue a Certificate (Sanad-e-Sultani) specifying the property sold and the name of the purchaser.

### **Transfer of Execution & Precept**

If you have filed an application for the execution of your decree and your opponent resides in another District or his property is situated in another District, you may apply to the Court for transfer of the decree to the District where he resides or his property is situated. The Court may upon your request or on its own motion transfer the decree to that District. The Court to whom the decree will be transferred will execute the decree as if the decree has been passed by it. Upon satisfaction of the decree the transferee Court will intimate the Court concerned by sending a certificate of satisfaction of the decree.

In some cases the Court instead of complete transfer of the decree may send a precept. The purpose of sending a precept is only the attachment of the property of the judgment debtor by the transferee Court for a period of two months extendable by the orders of the Court.

### **4.1.17 Part P: Important Applications in Civil Cases**

The following applications are important applications in the civil suits:

#### **1. An Application Under Section 12 (2)**

Section 12 (2) of the Civil Procedure Code provides a mechanism for challenging the decree obtained through fraud and misrepresentation. If you feel that someone has obtained a decree by practicing fraud or misrepresentation with the Court which affects your rights to the property, you can apply to the Court for setting it aside through an application.

The Court after getting reply from your opponent will decide the application. The Court directs you and your opponent to produce evidence, if factual controversy is involved. It may also decide the application without recording of evidence. If the application is accepted the Court will restore the main case and the trial will proceed as provided under the Code of Civil Procedure, 1908 for trial of the suits.

#### **2. Temporary Injunction Application**

If you have filed a case for grant of permanent injunction you can also move a petition for temporary injunction commonly known as stay application. If you have an apprehension that the defendant in your case intends to make any kind of interference in your property, you may make a request for grant of ad interim injunction to the Court. The Court while

considering the urgency of your claim will grant an ad interim injunction for a period of 14 days in your favour. You may also file an application for its further extension till the time your opponent appears in the case and submits his reply. For final disposal of the application the Court will consider the following essential questions before grant of temporary injunction:

- Whether Prima Facie case exists in your favour?
- Whether you will suffer irreparable loss if your request is turned down?
- Whether the balance of inconvenience tilts in your favour?

The Court will prohibit your opponent from making interference in your property till case is decided. The Court must pass a clear order in that context and the temporary injunction will remain in force for a period of six months or till decision, whichever is earlier.

### **3. Application for Amendment of Pleadings**

The law provides a mechanism for amendment of pleadings. If you intend to amend your pleadings you can submit an application to the Court at any stage of the case but you have to satisfy the Court that the amendment is necessary for resolution of the real controversy and by amendment nature of suit cannot be changed. You can also make a request for amendment of your pleadings at the appellate stage.

### **4. Application for Appointment of Commission**

The commission is appointed either for the purpose of recording of evidence or for spot inspection in cases of partition, demarcation, possession or encroachment and other related matters such as ascertainment of market value.

If any of your witness is unable to attend the Court for recording of evidence you may move a petition for recording his/ her statement through commission. The commission proceedings will be conducted in the presence of both the parties.

Similarly if you are of the view that someone has encroached upon your property or it needs to be demarcated, you may request the Court for appointment of the commission. The Local Commissioner will visit the spot in the presence of the parties and will make a report in accordance with the directions given by the Court. The Court may itself also carry out the spot check instead of appointment of commission.<sup>25</sup>

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<sup>25</sup> Section 75 A of the Khyber Pakhtunkhwa Civil Procedure Amendment Act, 2020

You also have the right to object to the commission report after its submission in the Court. The Court will decide the objections submitted by both the parties and if deemed appropriate will set aside the commission report and appoint a new commission or may also accept the commission report which will serve as evidence in the case.

#### **4.1.18 FREQUENTLY ASKED QUESTIONS:**

***Q.1. If the defendant is permanent resident of one district and is temporarily residing in another district, where will I file my case?***

Ans. You can file your case at the place where he permanently resides.

***Q.2. I intend to file a case against more than one person; they are residing at different places where will I institute my case?***

Ans. You can file the case in any one of the districts. It can be filed at the place where one of the defendants resides or the subject matter is situated.

***Q.3. Can I get my case transferred from one Court to another Court?***

Ans. Yes. Section 22 of the Code of Civil Procedure, 1908 provides that where two or more courts are empowered to try a case, it may be transferred from one court to another.

***Q.4. How can I make a request for transfer of my case?***

Ans. Section 23 of the Code of Civil Procedure Code, 1908 deals with the transfer of cases. You may file an application to the District & Sessions Judge for transfer of your case from one Civil Court to another and to the High Court for transfer of a case from one District to another. Where the courts are subordinate to more than one High Court, you may file an application in the High Court where the subordinate court before which the case is already pending is situated.

***Q.5. Am I supposed to pay for the fixation of my case?***

Ans. No, payment of any kind of money to the staff member amounts to corruption.

***Q.6. What remedy is available if a staff member demands money?***

Ans. You can file a complaint to the District & Sessions Judge or Senior Civil Judge of the District concerned. If deemed essential the proceedings will be initiated against the staff member under the Efficiency & Discipline Rules, 2011.

***Q.7. Is there any other remedy available?***

Ans. Yes. You can also file a complaint to the Human Rights Cell of Peshawar High Court and can approach the Anti-Corruption establishment.

***Q.8. If upon service of summons the defendant does not appear what will the Court do?***

Ans. If one of the defendants does not appear he will be proceeded ex-parte which means that the Court will proceed with the case in his absence and will direct the rest of the defendants to submit their reply. If all the defendants do not appear then the Court after proceeding ex-parte direct you to produce evidence in support of your claim and decide the case.

***Q.9. What will happen if the defendant/s appear during the ex-parte proceedings?***

Ans. If one or more defendants appear after the ex-parte proceedings are initiated he or they will move an application for setting aside of the proceedings and you will be required to submit reply to the application.

***Q.10. Can I ask questions from the witness of the opposite party myself?***

Ans. Yes, you can but it is better if you engage a counsel.

***Q.11. What is re-examination?***

Ans. If any matter is left to be stated by the witness you can make a request to the Court through an application for producing the witness again. The Court may accept or reject your application depending upon the circumstances of the case.

***Q.12. How a decree can be executed if the property is in occupancy of a tenant or any other person who is not bound by the decree?***

Ans. The decree will be executed by delivery of symbolic possession which means that the physical possession of the property cannot be handed over to the decree holder.

***Q.13. What remedy is available with joint decree holders desirous of obtaining actual possession?***

Ans. They should file a suit for partition and separate possession.

***Q.14. Whether the Court can pass an ex-parte order for stay of execution?***

Ans. Yes, the Court under Order 41 Rule 5 Sub Rule 4 of the Code of Civil Procedure, 1908 may make an ex-parte order for stay of execution pending the hearing of the application.

**Q.15. What if I submit my case in the wrong Court?**

Ans. The Court will return the case to you and you may approach the proper forum after its return.

**Q.16. Can I move an application under Section 12 (2) if I was not a party to the suit?**

Ans. Yes, you can file an application for setting aside the decree under Section 12 (2) even if you were not party to the suit.

**4.2 JUDICIAL MAGISTRATE****4.2.1 What is a Crime**

A simple definition of a crime is a wrong, prosecuted and carrying a penalty.<sup>26</sup> The words “Jurm”, “Jarimah” and “Jinayah” are used for crime in Islamic law. The word “Jurm” means a sin, crime, a fault, an offence or an act of disobedience, a transgression whether intentional or unintentional.<sup>27</sup> Every crime involves a wrongful act specifically prohibited by the criminal law.<sup>28</sup>

**4.2.2 Substantive & Procedural Law regulating Criminal Proceedings**

Substantive laws are the part of the law that creates, defines, and regulates the rights, duties of the parties. The procedural law prescribes procedure for the enforcement of rights. Pakistan Penal Code, 1860 is the main substantive law providing the rights and duties of citizens in criminal justice system. It defines offences, and prescribes punishments. In addition to Pakistan Penal Code there are various special statutes creating and defining the rights and duties in criminal justice system. The Code of Criminal Procedure, 1898 is the procedural law and provides procedure for prevention, inquiry, investigation and trial of offences. Where there is no provision to the contrary in a statute the procedure under the Code applies for trial or investigation.

**4.2.3 Different Kinds of Punishments**

The prime object of punishments is the prevention of offences. The determination of punishment depends upon the discretion of the court guided by various considerations.

<sup>26</sup> Smith & Hogan Criminal Law, 12<sup>th</sup> Edition, Page 9

<sup>27</sup> Criminal Law of Islam, Prof. Dr. Anwarullah, Page 1

<sup>28</sup> Criminal Procedure by John M. Scheb & John M. Scheb II, 2<sup>nd</sup> Edition, Page 4

Pakistan Penal Code is the main statute governing punishment of offences which provides following kinds:

1. Qisas.
2. Diyat.
3. Arsh.
4. Daman.
5. Ta'zir.
6. Death.
7. Imprisonment for life.
8. Imprisonment which is of two descriptions namely (i) Rigorous with hard labour (ii) Simple.
9. Fine.

#### **4.2.4 Scheme of Criminal Justice System:**

The criminal justice system not only deals with the punishment of offences already committed but also with prevention of offences. Therefore the Code of Criminal Procedure, authorizes the police authorities to take measures for prevention of offences e.g proceedings for keeping peace and good behavior. It also prescribes a procedure for prevention of public nuisances and to deal with urgent cases of nuisance or apprehended danger.

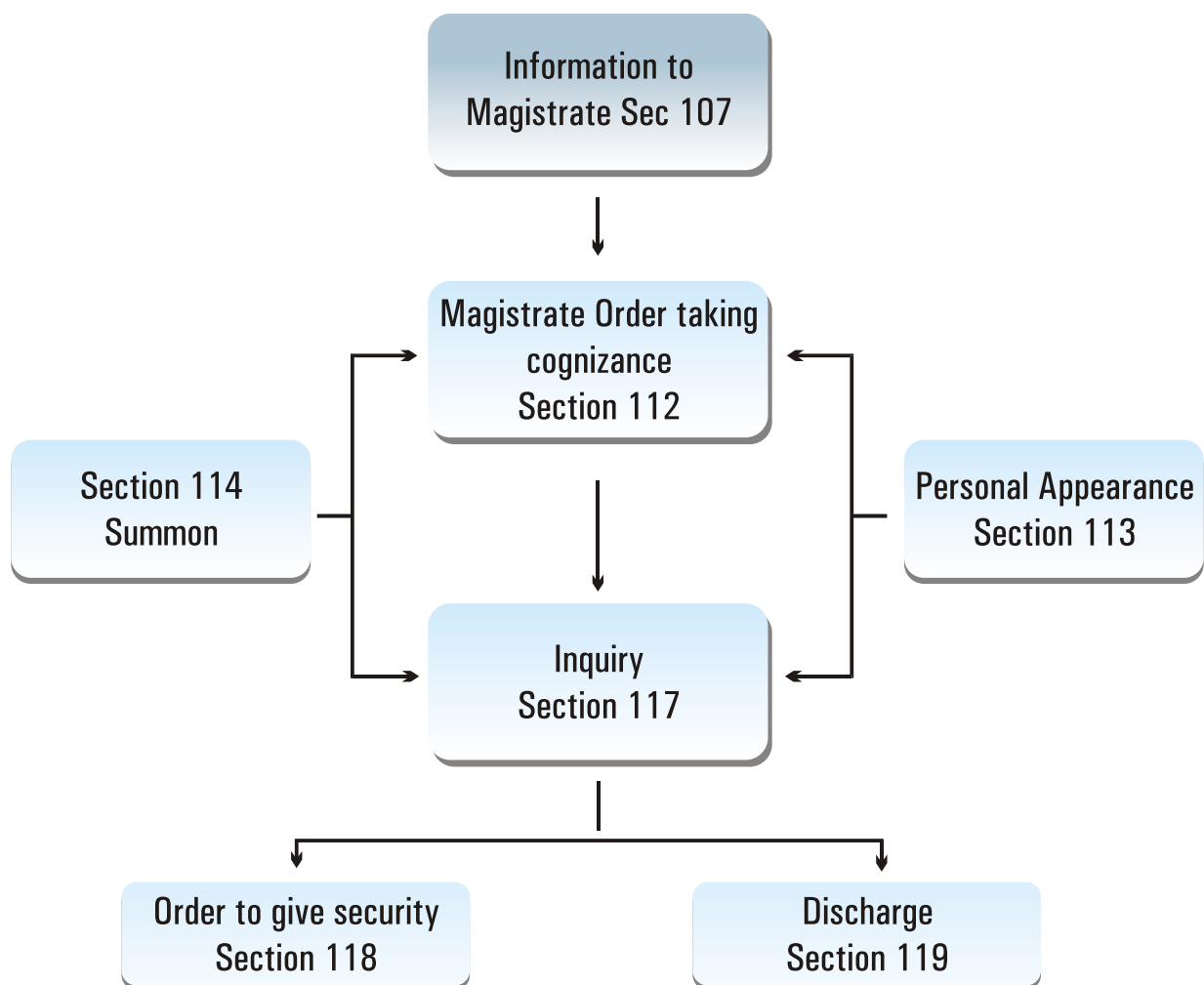
### **4.3 CONCEPTUAL FRAMEWORK OF SECURITY PROCEEDINGS**

#### **4.3.1 Security For Keeping Peace & Good Behavior**

The security proceedings are meant to prevent breach of peace. There is no prescribed form of information in such like cases. However the information must relate to commission of breach of peace or disturbance of public tranquility or a wrongful act that may cause a breach of peace or disturb public tranquility. The Magistrate can test the veracity of the information by calling for police report. If you are produced before the Magistrate on the apprehension of breach of peace, you will get show cause notice before a bond is secured. The Magistrate receiving information will pass preliminary order under Section 112 CrPC. The Magistrate will read the order under Section 112 CrPC or explain its substance to you. The Magistrate has to record

reasons for satisfaction that there is likelihood of breach of peace. He will then hold an inquiry as to the truth or otherwise of the information. You will be required to submit an interim bond. The Magistrate will have to conduct an inquiry like a trial if you refuse to accept the allegation and submit the final security. There is no need to frame charge in either case. Both the parties will be asked to produce evidence. The burden of proof is on the prosecution. The Magistrate after recording of reasons will pass an order for submission of security or discharge you after inquiry.

### **FLOW CHART SECTION 107 CrPC**



#### **4.3.2 Public Nuisance**

Section 133 relates to receipt of information as to public nuisance. There is no prescribed format for source of information. On receiving the information and on taking such evidence (if any) as he thinks fit the Magistrate passes a conditional order requiring the person complained against to remove obstruction.

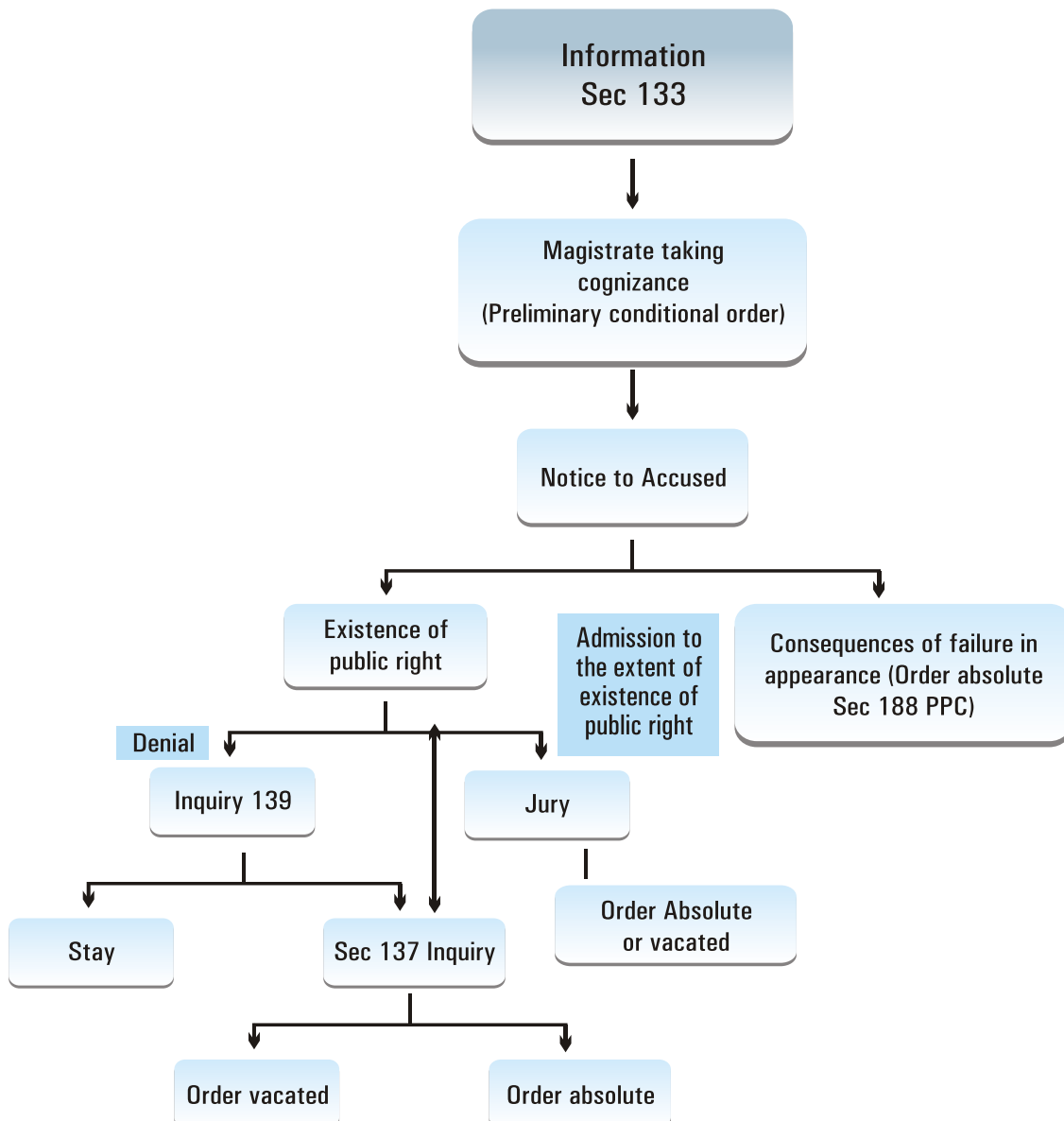


The order will be served on respondent, if he fails to appear before the court the order will attain finality and in case of disobedience a sentence under Section 188 PPC follows.

If person complained against appears and show cause against the order, the Magistrate shall record evidence and based on evidence may either confirm the conditional order or discharge it. The person complained against may also request for appointment of jury; in which case Magistrate will pass final order based on jury findings.

If the person complained against denies existence of public right, Magistrate will inquire the fact under Section 139 ACrPC.

### **FLOW CHART SECTION 133 CrPC**

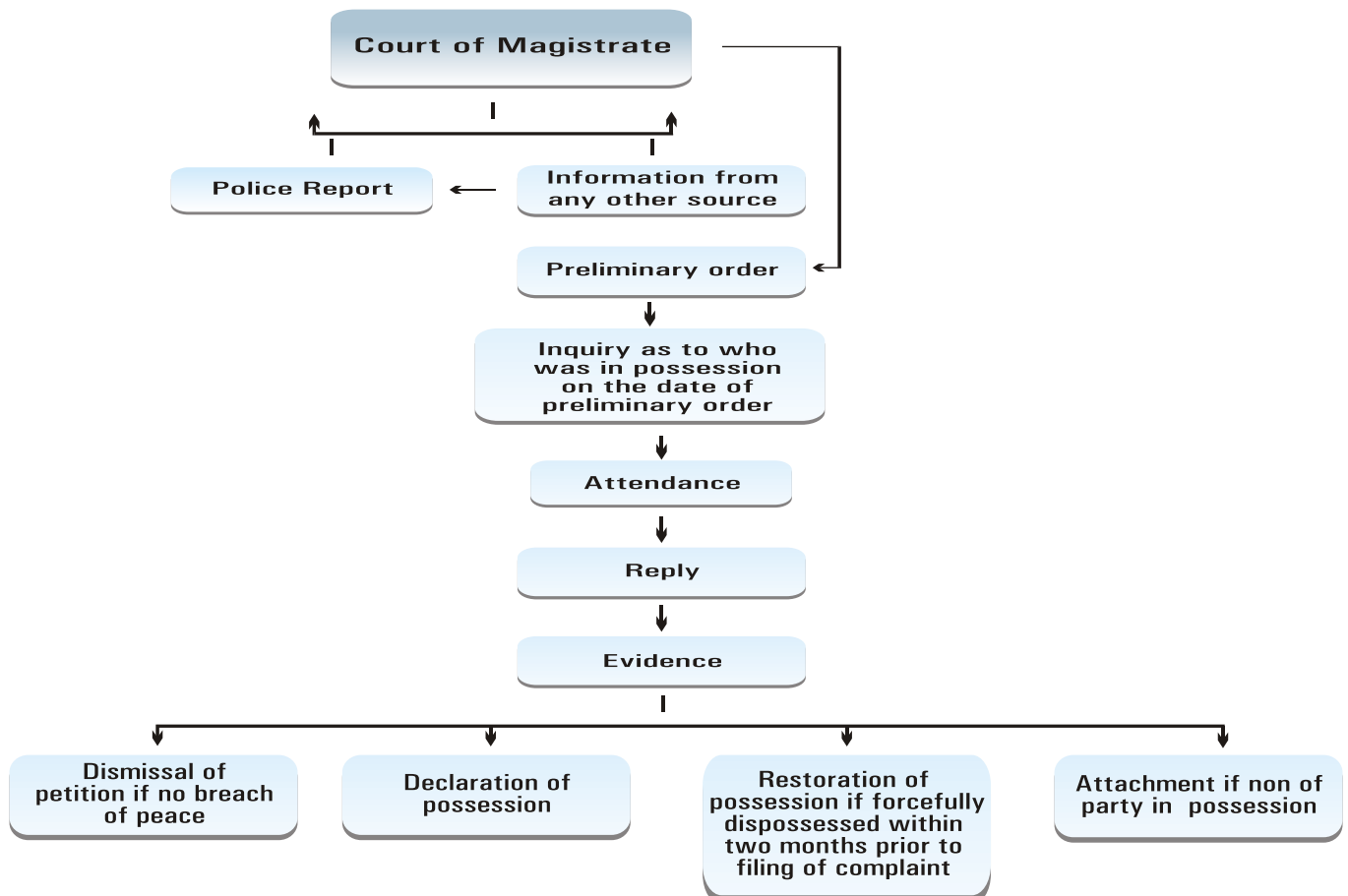




### 4.3.3 Disputes As to Immoveable Property

Section 145 relates to receipt of information as to breach of peace arising out of dispute over land. There is no prescribed format for source of information. The Magistrate marks an inquiry to the police for verification as to existence of breach of peace, if the information is received from any source other than police. If the substance of the information is not authentic and there is no likelihood of breach of peace the Magistrate will dismiss the petition. In case of existence of breach of peace the Magistrate will pass a preliminary order. In emergent cases, he may also order attachment of property. He shall thereafter call evidence as to possession of parties. After collection of evidence as to possession of the parties he will decide whether any and which of the parties at the date of preliminary order was in possession of the property and therefore declares person in possession to retain the possession until legally evicted. However, if it appears to the Magistrate that any party has within two months prior to filing of complaint, being forcefully evicted, he may restore his possession and dismiss the petition or by acceptance of the petition restore the person who was dispossessed of the property.

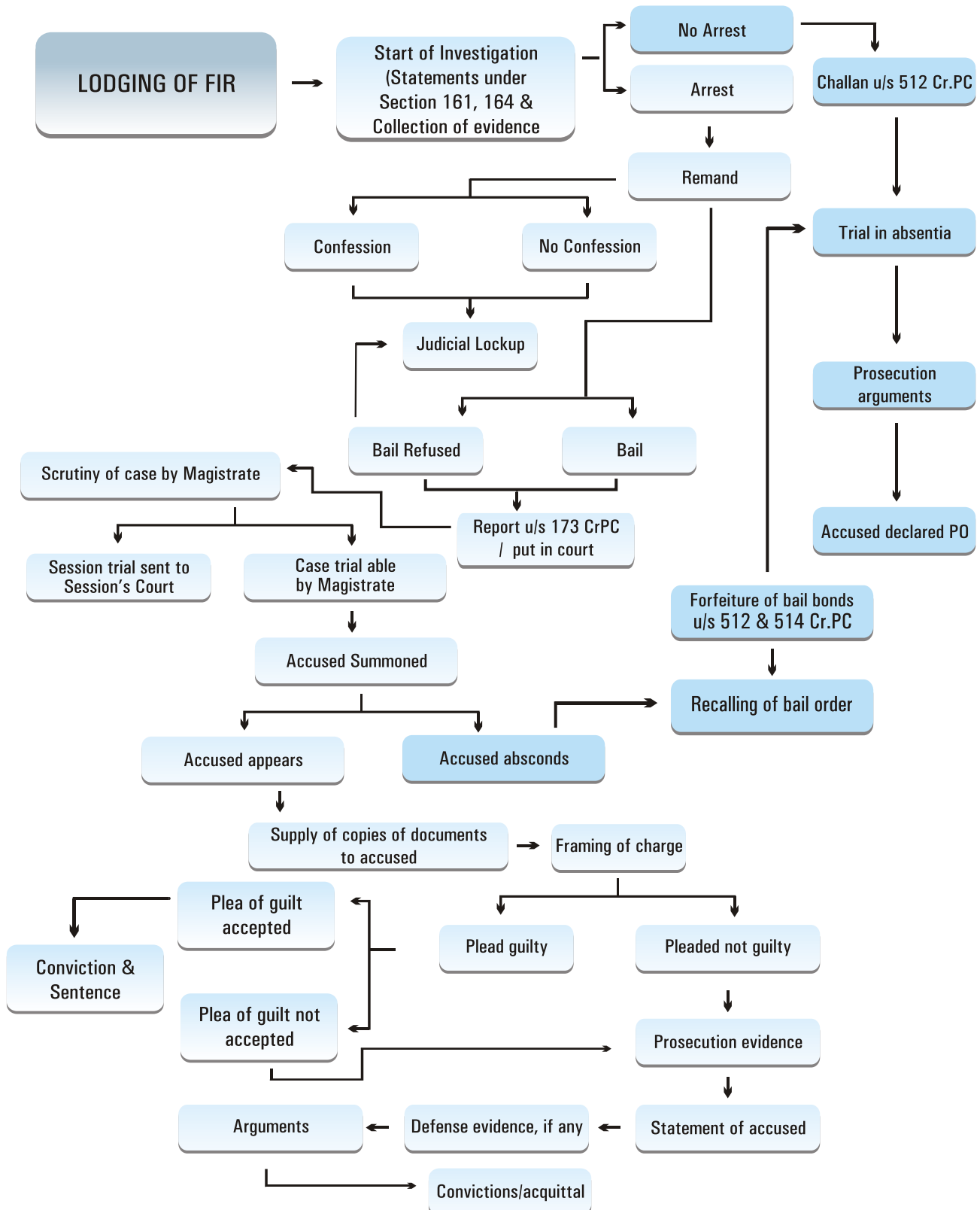
#### FLOW CHART SECTION 145 Cr.PC



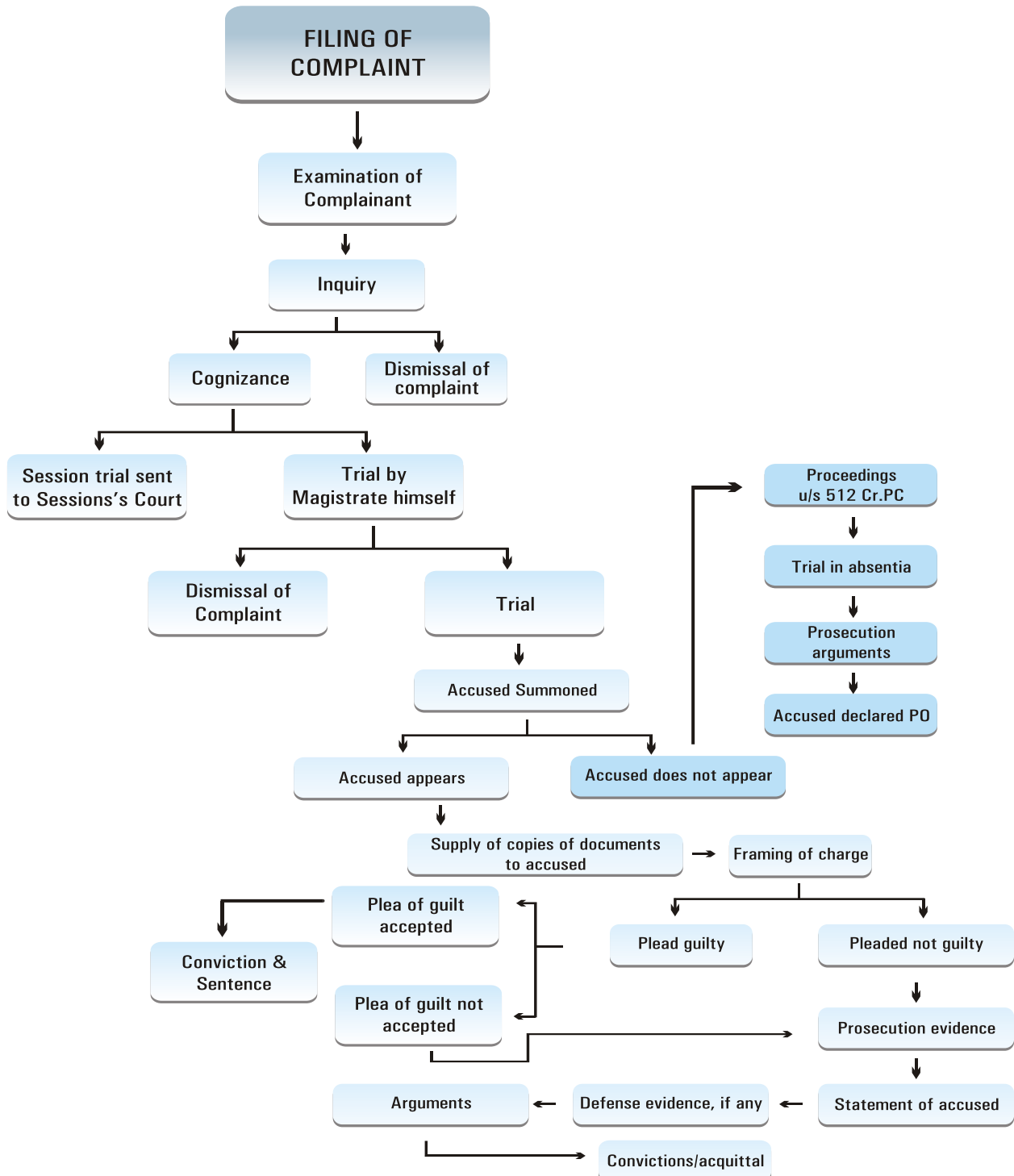
## 4.4 STAGES IN A CRIMINAL CASE

### 4.4.1 FIR Case

#### FLOW CHART FIR CASE



## 4.4.2 Complaint Case

**FLOW CHART CRIMINAL COMPLAINT**

## 4.4.3 Part A: How process is initiated?

The criminal case begins with the reporting of the matter as to commission of crime to the police either in cognizable or non-cognizable cases. There are three methods to initiate the proceedings in a criminal case:

1. By lodging of FIR.
2. By filing a complaint to the Magistrate.
3. If matter reported is non-cognizable offence procedure under Section 155 CrPC is to be followed whereas in case of cognizable offences suspected procedure under Section 157 CrPC is to be followed

A cognizable offence can be reported by anyone. If you are a victim in the case you can report the matter to the Police Station within the jurisdiction of which the occurrence took place. The matter can also be reported in the nearest Police Chowki/Police Post. The police will enter the report in Daily Diary called “Roznamcha”

#### **4.4.4 Part B: Classification of Offences & Cognizance**

Depending upon the nature of the case the police will proceed with the matter. If the information relates to the commission of a cognizable case the police will register an FIR. If the matter relates to commission of a non-cognizable case the police will have to approach the Magistrate for permission. Classification of the cognizable and non-cognizable offences is provided in Schedule attached to the Code of Criminal Procedure.

##### **What is FIR?**

FIR means First Information Report. The information recorded by the police officer on duty. The police start the investigation after lodging the FIR.

##### **Who Can Lodge FIR?**

An FIR can be lodged by any person, if it pertains to cognizable offence. You can lodge an FIR even if you are not an aggrieved person.

##### **Where to Lodge FIR?**

An FIR can be lodged in the police station of the area where the offence has occurred. It must be made to the officer-in-charge of the police station.

##### **How to Lodge FIR?**

You can lodge an FIR in the following manner:

1. Go to the police station and meet the officer-in-charge.
2. Narrate information relating to the commission of the crime.
3. The officer will reduce the information in writing.
4. If you are the informant you will be required to sign the information.

5. The police officer will then enter the information in a book to be kept in the police station.
6. If you are an informant you will get a copy of FIR free of cost.

### **Filing of e-FIR**

The KP Police has also introduced a procedure for lodging of e-FIR. You can lodge an FIR directly from your home by filling the proforma available on the website of the concerned police station.

### **Consequences in Case of False FIR**

The lodging of false FIR may result in initiation of proceedings under Section 182 PPC against the informant.

#### **4.4.5 Part C: Complaint**

The complaint is oral or written request for initiation of criminal proceedings.

#### **Where to File a Complaint?**

You can file a complaint as to commission of offence to the Magistrate.

#### **How to File a Complaint?**

A complaint can be submitted to the Magistrate in the form of written application or oral request. The Magistrate will record your statement on oath after submission of complaint.

#### **4.4.6 Part D: Search & Investigation**

Once the FIR has been registered the investigation in the case will begin. Searches may be conducted for documents and persons. The following points need to be remembered:

- Without getting permission of the occupant and without search warrant no one not even the police officer can enter the house of any person. There are, however, certain exceptions to this rule.
- Police officer has no right to disturb the privacy and dignity of the inmates.
- Search is to be made in the presence of at least two witnesses.
- The occupant of the place searched shall be permitted to attend during the search.
- The list of the things taken into possession shall also be supplied to the occupant upon his request.

#### 4.4.7 Part E: Arrest in Cognizable and Non-Cognizable Offence

In cognizable cases the police can arrest without warrant but in non-cognizable cases the police cannot arrest without a warrant. If you are arrested for the commission of crime your right to liberty as envisaged by the Constitution is safeguarded by various procedures to be followed by the Police. The details as to cognizable and non-cognizable may be seen in the Schedule attached to the Criminal Procedure Code, 1898.

#### Your Post Arrest Rights!

- It is an established principle of criminal law that a person is to be treated innocent unless proven guilty. An unlawful arrest of person is violation of Article 9 of the Constitution of Islamic Republic of Pakistan.
- No police officer can arrest you without informing you of the reason/ ground of your detainment/ arrest.<sup>29</sup>
- The Police Officer executing the warrant shall notify the substance of the warrant and if necessary to show you the warrant.<sup>30</sup>
- The police officer must notify the substance of the order which must also mention the crime and the grounds of arrest and if required show you the order also.<sup>31</sup>
- A police officer making an arrest without a warrant must produce you without unnecessary delay before the Magistrate having jurisdiction or before a police officer in charge of the police station.<sup>32</sup>
- The law also requires that the arrested person must be produced in court within 24 hours of his arrest, it may, however, exclude the time which is required for the journey from the place of arrest to the Magistrate Court.<sup>33</sup>
- You have the right to get released on bail which may either be on personal bond or requiring you to furnish surety bonds by making arrangement for the sureties in bailable cases.
- You have the right to fair trial as an accused.<sup>34</sup>
- As an accused you cannot also be compelled to be a witness against yourself.

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<sup>29</sup> Article 10 (1) of the Constitution of Islamic Republic of Pakistan, 1973

<sup>30</sup> Section 80 of the Code of Criminal Procedure, 1898

<sup>31</sup> Section 56 of the Code of Criminal Procedure, 1898

<sup>32</sup> Section 60 of the Code of Criminal Procedure, 1898

<sup>33</sup> Section 61 of the Code of Criminal Procedure, 1898

<sup>34</sup> Article 10 A of the Constitution of Islamic Republic of Pakistan

- You have the right to be produced before the medical officer for medical examination before and after your production in the court if police makes request for physical remand.
- No person shall be subjected to torture for extracting an evidence.<sup>35</sup>
- Section 50 of the Criminal Procedure Code provides that a person after arrest cannot be subjected to more restraint than is necessary to prevent escape.

### **Arrest of Juveniles**

A juvenile cannot be arrested in cases of preventive detention or offences relating to security for keeping peace and good behavior.<sup>36</sup>

### **Post Arrest Rights of Juveniles**

In addition to the rights aforementioned the juvenile accused has certain other rights provided under the law which are as under:

- The arrested juvenile shall be kept in an observation home.
- The officer-in-charge of the police station shall, as soon as possible, inform guardian of the juvenile, if he can be found, of such arrest and inform him of the time, date and name of the Juvenile Court before which the juvenile shall be produced.<sup>37</sup>

### **Post Arrest Rights of Females**

- As a female accused you cannot be kept in police custody overnight except for unavoidable circumstances. A Magistrate can allow the detention in police custody, with reasons recorded in writing, only in cases of murder or dacoity and your interrogation can only be performed in prison in the presence of an officer of jail and a female Police Officer.<sup>38</sup>
- If you are investigated in a case you cannot be detained at the police station for anytime longer than necessary to record information that you are willing to provide. You cannot be compelled to remain with the police between sunset and sunrise.<sup>39</sup>

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<sup>35</sup> Article 14 (2) of the Constitution of Islamic Republic of Pakistan, 1973

<sup>36</sup> Section 5 (2) of the Juvenile Justice System Act, 2018

<sup>37</sup> Section 5 (1) of the Ibid Act

<sup>38</sup> Rule 26.18-A Police rules, 1934, & Section 167 (5) of the Criminal Procedure Code, 1898

<sup>39</sup> Rule 26.18-A. (3) of Police rules, 1934.

#### 4.4.8 Part F: Physical Remand

After arrest the accused is produced before the Magistrate within 24 hours and if investigation cannot be completed within 24 hours, the police will make a request for the remand<sup>40</sup>. The Magistrate cannot grant custody for more than 15 days in all. The Magistrate First Class is empowered to grant or refuse custody.

The aggrieved party has the right to challenge the order of remand by filing a revision before Sessions Judge.

#### 4.4.9 Part G: Confession

Confession is the statement where you admit your guilt in the court at the stage of investigation. The important points for confessions are:

- Any statement admitting the guilt recorded before the police cannot be used against the accused as his confession.
- Accused cannot be compelled to record statement.
- No one except the judge will be present in the Court when confession is recorded.
- The handcuffs must be removed.
- If the accused refuse to record the statement he will not be sent again to the police custody.
- The statement will be recorded in the language of the accused or in English and in that case the Magistrate will read over and explain the statement.
- Oath cannot be administered to the accused.
- The statement must be voluntarily recorded after making him understand the consequences of confessional statement and to disclose to him that he is not bound to confess.
- The accused has to be given time for relaxation.

#### 4.4.10 Part H: Bail

Bail is the temporary release of a person from jail pending trial. If you are charged for commission of an offence you can either apply for pre arrest bail if not arrested or post arrest bail in case of arrest.

##### **When To Apply For Pre Arrest Bail?**

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<sup>40</sup> Section 167 of the Code of Criminal Procedure, 1898



If you apprehend that there is a move to get you arrested on false charges, or due to enmity, or you fear that a false case is likely to be built up against you, you have the right to move the Court of Session or the High Court under section 498 of the code of Criminal Procedure for grant of bail. You will have to show by disclosing special facts and events that you have reason to believe, that you might be arrested for an offence. In order to get a pre arrest bail you have to surrender yourself to the Court by appearing in person and there must be specification of the offence in the order. You cannot take a blanket order for every kind of offence.

### **Protective Bail**

The protective bail is granted by the Sessions Court of a district other than the one where a person is charged under section 498 of the Criminal Procedure Code, 1898 to an accused to enable him to approach the Court concerned of the district where he is charged for the purpose of obtaining pre-arrest bail without touching its merits.

### **Bail After Arrest**

Bail after arrest can be in bail able or non-bailable cases. The Court can grant bail with or without sureties.

### **Transit Bail**

It deals with the transfer of accused from one place to another. The bail is granted to cover the duration of transfer of accused and his appearance before the Court empowered to try the case, keeping in view the distance between the two places.

### **Bail in Bailable Offence**

You have an indefeasible right to the grant of bail subject to production of sureties if you are charged for the commission of a bailable offence.

### **Bail in Non-Bailable Offence**

In non-bailable offences you have to move the Court for your release on bail. The bail application will have to be submitted to the Court which is empowered to try the case and depending upon various factors the Court may or may not grant bail to you.

The law is settled on the point that grant of bail in a case where the offence does not fall within the prohibitory clause (offences punishable with death, imprisonment for life or imprisonment upto ten years) is a rule while its refusal should be an exception.

**Bail in cases of Juveniles**

The Juvenile Justice System Act, 2018 provides a special procedure for grant of bail to juveniles. If a juvenile is arrested for the commission of an offence he shall have the following rights:

- If not already released under Section 496 CrPC he shall be released by the Juvenile Court on bail with or without sureties.
- If the Juvenile Court feels that the release of juvenile will bring him in association with criminals or expose him to any other danger he shall be placed under the custody of a suitable person or Juvenile Rehabilitation Centre under the supervision of probation officer. (An officer appointed under the Probation of Offenders Ordinance, 1960 to investigate report on, and supervise the conduct of convicted offenders on probation).
- The juvenile shall not under any circumstances be kept in a police station under police custody or jail.
- If the juvenile is not released on bail, the Court will require the police to trace out the whereabouts of the guardian of the minor so that he can be handed over to his guardian.
- If the juvenile is charged for offence punishable upto seven years the offence shall be treated as bailable.
- If the child above 16 years of age is detained for commission of heinous crime he may or may not be released on bail depending upon the circumstances of the case.
- If the trial of the juvenile is not completed within 6 months and the delay is not occasioned due to any fault of the juvenile he shall be released on bail.

**Bail in cases of Female Accused**

Being a female accused you have the following rights in non-bailable offences:

- If bail is refused to you and your trial is not concluded within six months and in cases of offence punishable with death, trial is not concluded within one year and the delay is not caused due to your fault you will be released on bail.

**Bail Cancellation**

The High Court or Court of Session may direct that any person who has been released on bail be arrested and commit him to custody on an application moved by the complainant or the prosecution.

You can apply for bail cancellation on the following grounds:

- Abuse/misuse of concession of bail .
- Repetition of the crime.
- Hampering the investigation .
- Commission of some acts of violence against the police .
- Making some efforts to tamper with evidence.
- Manage to flee away from the country or beyond control of sureties.
- The order of bail has been obtained through misrepresentation or suppression of facts.
- The bail order is patently erroneous.
- The accused absconds or there is chance of abscondance.

**4.4.11 Part I: Superdari**

Superdari relates to the custody of moveable belongings of the accused or the victim seized by the police during search. The property seized can be lawful or unlawful property. You can apply for the return of the property only if it is lawful property. The unlawful property e.g narcotics substances cannot be returned.

Section 516 A of the Criminal Procedure Code deals only with the interim return of the property while Section 517 provides a mechanism for return of property after final decision of the case.

**4.4.12 Part J: Bond, Its Kinds & Forfeiture of Bond**

Surety means “a person who gives security of person or property to be released on bail” and bond means “the amount of security furnished by surety who undertakes the responsibility of producing the accused or the property whenever asked/desired by the Court.

**Kinds of Bonds**

- i) Bond for Person and Bond for Property.
- ii). Personal Bond and Surety Bond.

iii). Bond in cash/ Promissory Note.

### **Discharge of Surety**

If you have produced yourself in the court as surety but you intend to absolve yourself from the liability you can apply anytime for discharge from the liability as a whole or in part. In that situation the Court will issue warrant for the arrest of the person, and will direct the person for fresh sureties and in case of failure commit him to custody and you will be discharged from liability.

### **Forfeiture of Bonds**

If you as surety failed to produce the accused when required, surety bonds are forfeited and the Court may proceed to recover the amount from you. The recovery can be made by issuing a warrant of attachment and sale of your movable property. Where movable property for sale is not found, the Court may order civil imprisonment for six months.

#### **4.4.13 Part K: Shelter Homes**

A female victim can be sent to shelter home/ Dar ulAman. Five (5) regular and one ADP funded DarulAman have been setup in the province. They provide institutional cum residential care for runaway and destitute women.

They provide the following services

- Imparting them skill / vocational training in income-generating skills.
- Free shelter facilities provided in the building of Women Crisis Centre.
- Free food according to the government approved scale and a balanced food menu.
- Free cloth, shoes and other usable items according to the need.
- A qualified Nurse to provide in-time health coverage.
- An Advocate on voluntarily basis for such cases in courts though the center has no advocate.
- The Religious education.
- The vocational training likes cutting, stitching, embroideries, knitting etc.
- The counseling to deal with the psychological problems.<sup>41</sup>

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<sup>41</sup>[https://swkpk.gov.pk/?page\\_id=1258](https://swkpk.gov.pk/?page_id=1258)

**4.4.14 Part L: Exhumation**

Exhumation is the lawful digging out of a buried dead body from the grave for medico-legal examination. In cases of suspicious deaths the police may inquire into the cause of death by making a request for exhumation of the dead body. The Magistrate can also initiate an inquiry for finding the cause of death. If you are LR of the deceased you can also petition the court for exhumation of the dead body.

**4.4.15 Part M: Court Marriages**

The Magistrate has nothing to do with the court marriages. A Muslim major male and female can enter into valid contract of marriage. The only requirement under the law is the registration of marriage through attested Nikah Nama.

**4.4.16 Part N: Medical Examination & Post Mortem**

An injured person is to be sent to the medical officer for medico-legal opinion.<sup>42</sup> The medical officer authorized to undertake such examination will fill the prescribed form<sup>43</sup> available in the Police Rules. The report is called medico legal report.

Autopsies or post-mortem examinations are needed for verifying the cause of death. The dead body of a person, who died in unnatural and suspicious circumstances, is taken into custody by a Police Officer. The Police Officer/IO will fill the prescribed form<sup>44</sup> available in the Police Rules after examination of the body and send the body for post mortem examination. The IO must also send the clothing found on the body of the victim and any foreign material which is likely to have caused the death with the body for examination.

**4.4.17 Part O: Identification Proceedings of Accused**

The procedure for identification parade is carried out in the Jail premises under the supervision of the Magistrate. Main object of identification proceedings is to enable a witness to properly identify a person involved in a crime and to exclude the possibility of a witness simply confirming a faint recollection or impression.

**4.4.18 Part P: Submission of Challan**


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<sup>42</sup> Police Rules 25.19

<sup>43</sup> Form 25.39 of the Police Rules

<sup>44</sup> Form 25.37 of the Police Rules

The Police Officer is under obligation to submit a report through the Public Prosecutor within 14 days of the lodging of FIR and if he is unable to complete the investigation within 14 days then he is duty bound to submit an interim report within 3 days of the expiration of the period. If the accused is untraceable the proceedings under Section 512 of CrPC will start which are meant for preservation of evidence in his absence. If the police feel that there is no substance in the case, they may move a petition for case cancellation.

#### **4.4.19 Part Q: Filing of complaint and Statement of Complainant**

The criminal trial may also start with the submission of a complaint. If you are aggrieved of the commission of any offence you may file a complaint before the Magistrate of the area where the offence is committed.

If the case is a complaint case and you are a complainant in the case, the Court will record your statement in support of the contents of the complaint.

#### **4.4.20 Part R: Scrutiny of Case**

The Court taking cognizance of the case whether FIR or complaint will scrutinize it. If the Case is triable by the Court of Sessions the Magistrate will send the case to the Court of District & Sessions Judge of the District without recording evidence. In sending the case to the Sessions Judge the Magistrate will not merely act as a post office and he will have to apply his mind to see as to whether a prima facie case exists for sending the case.<sup>45</sup>

If the case is one of concurrent jurisdiction (Where the Magistrate and the Court of Sessions simultaneously have the jurisdiction over the case) the Magistrate proceeds with the trial of the case and if at the end he/ she is of the opinion that the sentence required to be imposed is beyond his jurisdiction, he/she will send the case to the Sessions Judge.

#### **4.4.21 Part S: Trial**

##### **Attendance of Accused**

If the Magistrate is satisfied that he may try the case and sufficient ground exists for proceeding with the case he will issue summons or warrant against the accused keeping in view the nature of the case.<sup>46</sup>

<sup>45</sup> 1981SCMR 267

<sup>46</sup> Section 204 of the Code of Criminal Procedure, 1898

**Supply of Copies**

If you are accused in a case you have a right to get the copies of the following documents free of cost:<sup>47</sup>

- The first information report.
- Statements of all the witnesses recorded under section 161 and 164 of the Criminal Procedure Code.
- Inspection note recorded by the investigation officer on his first visit to the place of occurrence.

If the case is tried summarily or punishable with fine or imprisonment not exceeding six months you may not be provided with the copies of the documents.

**Framing of Charge**

Charge is the gist of the whole case of prosecution and the purpose is to tell the accused precisely and concisely about the nature of the offence.

The charge should state the following:

- The offence with which accused is charged.
- The offence specifically named by the law which creates the offence.
- The law and section of law against which the offence is committed.
- In case of previous conviction, the fact, date and the place of previous conviction.
- The gross sum and the dates between which the offence is committed in case of criminal breach of trust or dishonest misappropriation of property.

**Plea of Guilt:**

If you are accused in the case the Court while framing charge ask you the question about plea of guilt. In case of your admission the Court may impose the conviction and sentence immediately after giving you a show cause. In case of your refusal to admit the guilt the Court will proceed with the trial of the case.

**Prosecution Evidence**

If the accused does not admit his guilt the Court will require the prosecution to produce evidence.

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<sup>47</sup> Section 241 A in case of trial before Magistrate & Section 265 C in case of Sessions Trial



**Statement of Accused**

Under Section 342 of the Criminal procedure Code the Court will put questions to the accused and record his statement after the conclusion of prosecution evidence. If you are an accused in the case and you refuse to answer the questions you will not render yourself to punishment. This statement will be recorded without administering oath to the accused.

The accused will also be given an option under Section 340 (2) to record statement on oath.

**Defense Evidence**

The accused will be given an option to produce evidence in defense. If there is specific plea of alibi (the defense plea that the accused was not present on the place of occurrence) or private defense then the burden to prove the plea will be on the accused and he will be required to prove.

**Arguments**

Both the parties have the right to advance their arguments after the conclusion of the trial.

**Announcement**

After hearing the arguments the Court will decide the case forthwith or will adjourn it to a future date. The sentence will follow the conviction. In case of conviction the accused has the right to get the copy of the judgment the moment it is announced.

**Death Reference**

In case where death sentence is passed, the Sessions Court will have to submit the order to the High Court for confirmation. The death sentence shall not be executed if the legal heirs of the deceased pardon the convict or enter into compromise with him in compoundable cases even at the last moment.

Similarly the High Court may postpone the death sentence awarded to a female who is pregnant or convert it to life imprisonment.

**4.4.22 Frequently Asked Questions*****Q.1. What remedy is available if the police officer refuses to lodge FIR?***

Ans. You can file an application under Section 22 A of the Criminal Procedure Code before the Court of District & Sessions Judge exercising powers as Justice of Peace.

***Q.2. Whether an information for lodging of FIR can be sent through post?***

Ans. The information may be sent in writing and by post, to the Superintendent of Police concerned who, if satisfied that such information discloses the commission of a



cognizable offence, shall either investigate the case himself or direct an investigation to be made by any police officer subordinate to him.

***Q.3. If the FIR is already lodged can I have the right to file a complaint?***

Ans. Yes, you can file a separate complaint.

***Q.4. What will be the procedure if both the Complaint Case and Challan Case are initiated?***

Ans. Ordinarily both the cases cannot proceed simultaneously. Complaint case should be taken first. Witnesses listed in Police challan can be examined as Court witnesses.<sup>48</sup>

***Q.5. Am I supposed to sign a statement under Section 161 of CPC recorded before the police?***

Ans. No, a statement recorded under Section 161 does not require signing.

***Q.6. Can I refuse to record statement under Section 161 CrPC?***

Ans. No, the refusal to record statement under section 161 is a distinct offence.

***Q.8. Whether an accused can record statement and not a confession under Section 164 CrPC?***

Ans. Yes, an accused can record statement under Section 164 CrPC.

***Q.9. What does entries in Column 2 of the Challan mean?***

Ans. Entries in column 2 of the challan means that the police do not want to prosecute the persons entered in the column. The Court keeping in view the facts of the case can summon<sup>49</sup> that person or can also discharge him.

***Q.10. Can I dispose of the property after getting superdari from the Court?***

Ans. No, you cannot dispose of the property till the final decision in the case.

***Q.11. Whether the liability of the surety is discharged after his death?***

Ans. No, the Court may proceed against the property of the surety, if the bond was forfeited prior to his death.

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<sup>48</sup> PLD 1966 SC 708

<sup>49</sup> 2002 SCMR 63

## 4.5 SMALL CLAIMS & MINOR OFFENCES COURT

The Small Claims & Minor Offences Courts are created under the Small Claims & Minor Offences Ordinance, 2002. If the value of the suit for the purpose of jurisdiction is less than Rs.100, 000/ the Civil Judge will have to follow the procedure provided under the Small Claims & Minor Offences Ordinance, 2002.

### 4.5.1 How To Initiate a Small Claims Case?

If you have a claim pertaining to property the value of which does not exceed Rs.100, 000/ your case will be heard by the Court of Small Claims. The plaint will be in the format provided under the Code of Civil Procedure; however you will be required to submit a schedule of witnesses containing their number, names and addresses and a brief summary of their evidence with the plaint. The Court will issue summons within 2 days for final determination of the suit. The law requires that the summons shall be served within 15 days. The Court may grant 15 days to the opponent for filing of written statement.

### 4.5.2 Referring the Matter for Amicable Settlement

The Court may in such cases upon application or otherwise also adopt procedure for amicable settlement of disputes by appointment of *Salis*, mediator, arbitrator, conciliator or any other person. The *Salis* will facilitate negotiations between the parties and assist in reaching a settlement. He will then prepare a deed/ award of settlement signed by the parties and send it to the Court. The Court will pass a decree within 15 days after inviting objections.

### 4.5.3 Procedure in Case of Trial

If the matter is not referred to the *Salis* or the arbitrator, the Court will follow the procedure of civil suits for summary disposal of cases and decide the case after recording of evidence within three months.

### 4.5.4 Execution of Decree

In cases relating to Small Claims & Minor Offences there is no need for filing of separate application for execution of the decree and the Court will proceed towards its execution as a part of the proceeding of civil suit.

### 4.5.5 How To Proceed in a Minor Offences Case?

If the offence with which the accused is charged is punishable with imprisonment less than 3 years or with fine or with both the Court for Small Claims & Minor Offences is empowered

to try the case. The procedure for trial of the cases is same as provided in the Code of Criminal Procedure.

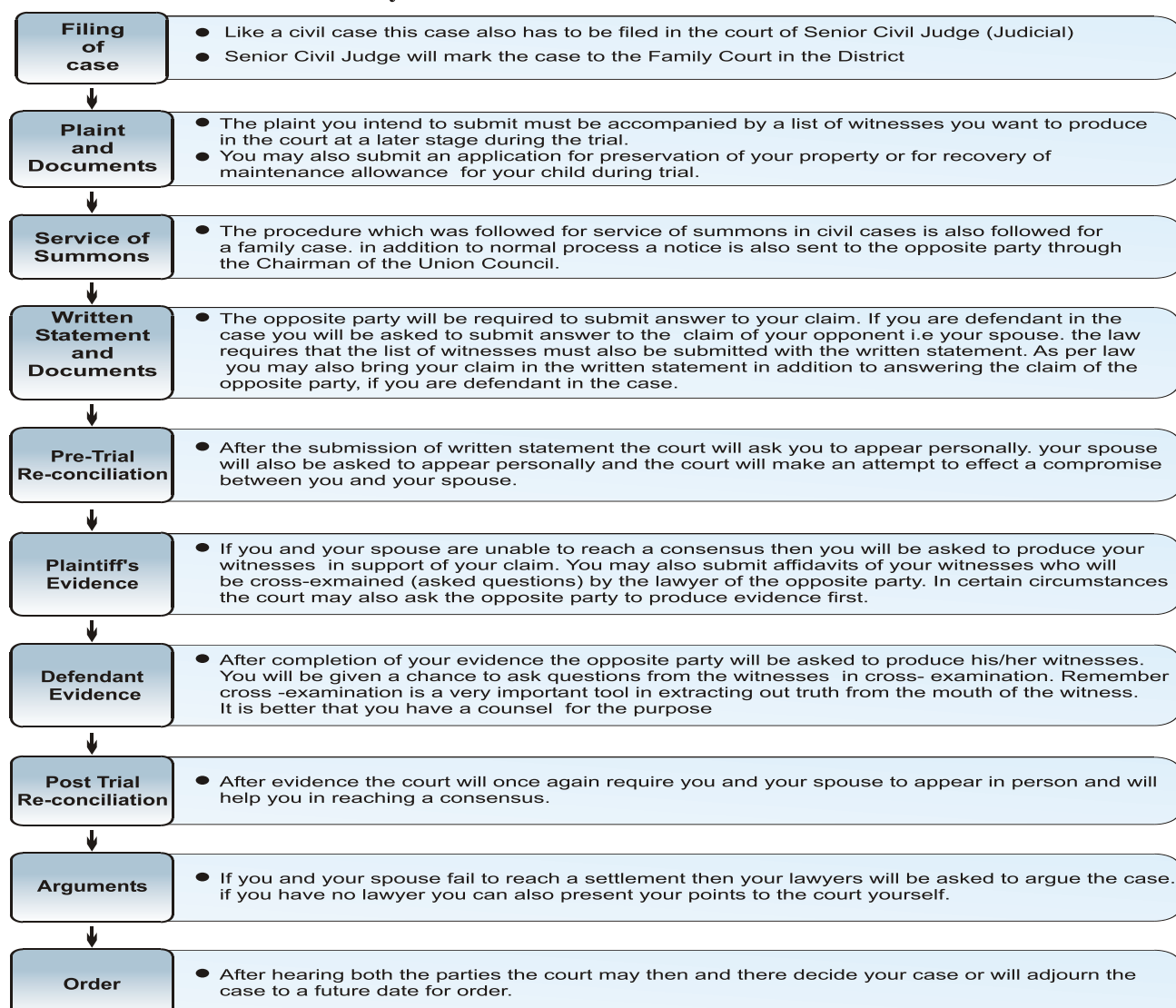
#### 4.5.6 Amicable Settlement of the Case

In criminal cases also the Court may refer the matter to the *Salis* or arbitrator except in cases which are non-compoundable or the Court feels that it will be against public policy.

### 4.6 FAMILY COURT

If the subject matter of your case is dower, dowry, maintenance for you or your child you will have to institute your case before the Family Court. Similarly if you intend to seek custody of your child or appoint guardian for your child you will have to go to the Family Court. The Family Court is also empowered to hear cases relating to dissolution of marriage, restitution of conjugal rights and recovery of personal property & belongings of wife.

#### 4.6.1 Flow Chart of Family Case



#### 4.6.2 Frequently Asked Questions:

##### *Q.1. Can I meet my child during the proceedings of the case?*

Ans. Yes you can meet your child during the proceedings of the case by making an application to the Court.

##### *Q.2. What if I don't want to live with my husband and want quick relief?*

Ans. At the Pre-trial re-conciliation stage the Court will try to effect a compromise between you and your spouse and if you don't want to live with him, you will get a decree for dissolution of marriage on the basis of khula then and there.

##### *Q.3. What is the meaning of Khula?*

Ans. SurahBaqaraAyat No 229 deals with the concept of dissolution of marriage through Khula.

الطَّلَاقُ مَرَّتَانٍ فَإِمْسَاكٌ بِمَعْرُوفٍ أَوْ تَسْرِيحٌ بِإِحْسَنٍ ۚ وَلَا يَحِلُّ لَكُمُ أَنْ تَأْخُذُوا بِمِمَّا ءَاتَيْتُمُوهُنَّ شَيْئًا إِلَّا أَنْ يَخَافَا أَلَّا يُقِيمَا حُدُودَ اللَّهِ فَإِنْ خِفْتُمْ أَلَّا يُقِيمَا حُدُودَ اللَّهِ فَلَا جُنَاحَ عَلَيْهِمَا فِيمَا افْتَدَتْ بِهِ ۚ تِلْكَ حُدُودُ اللَّهِ فَلَا تَعْتَدُوهَا وَمَنْ يَتَعَدَّ حُدُودَ اللَّهِ فَأُولَٰئِكَ هُمُ الظَّالِمُونَ



یہ طلاق (ف ۴۴۶) دو بار تک ہے پھر بھلائی کے ساتھ روک لینا ہے (ف ۴۴۷) یا کوئی کے ساتھ چھوڑ دینا ہے (ف ۴۴۸) اور تمہیں روا نہیں کہ جو کچھ عورتوں کو دیا (ف ۴۴۹) اس میں سے کچھ واپس لو (ف ۴۵۰) مگر جب دونوں کو اندیشہ ہو کہ اللہ کی حدیں قائم نہ کریں گے (ف ۴۵۱) پھر اگر تمہیں خوف ہو کہ وہ دونوں ٹھیک انہیں حدود پر نہ رہیں گے تو ان پر کچھ گناہ نہیں اس میں جو بدلہ دے کر عورت چھٹی لے (ف ۴۵۲) یہ اللہ کی حدیں ہیں ان سے آگے نہ بڑھو اور جو اللہ کی حدود سے آگے بڑھے تو وہی لوگ ظالم ہیں

In simple words Khula is a kind of dissolution of marriage in which case you are required to forego your right of dower or if you have received half or full of it to return it to your husband for getting your marriage dissolved.

***Q. 4. Can I get maintenance for myself and my child during the trial?***

Ans. You will get interim maintenance for your child during the trial but you may not get maintenance for you till the conclusion of the trial as you will have to prove in the Court that you were expelled from the house.

***Q.5. Can I recover my dower from my in laws after death of my husband?***

Ans. Yes you can recover your dower.

***Q.6. In which Court I am supposed to bring my claim for recovery of my dower in that case?***

Ans. You may bring your claim in the Family Court.

***Q.7. My child is in the custody of my husband. Can I get his/her custody before the conclusion of the trial?***

Ans. Yes. You can make an application for interim custody of your child to the Court where your case is already pending and if there is some urgency the Court will hand over the custody of your child to you.

***Q.8. I have filed a suit for restitution of conjugal rights while my wife has filed a suit for dissolution of marriage. Both the cases are pending in two different districts as my wife lodged her suit at the place where she was residing with her brother. What is the proper course for me?***

Ans. The proper place for such like cases is the place where your wife resides as Rule 6 of the West Pakistan Family Court Rules, 1965 provides that in cases of dissolution of marriage the place where the wife resides temporarily or permanently will have the jurisdiction. You can, therefore, move an application to the High Court for transfer of your case to that district.

***Q.9. I intend to institute a suit for dissolution of marriage and recovery of my dower and dowry articles. I also want to seek custody of my children who are residing with their father in another district. Shall I bring separate suits?***

Ans. No you can file one case for all of your claims.

***Q. 10. Where will I institute my case?***

Ans. You will institute the case where you reside.

***Q.11. My husband has contracted second marriage without my permission. What is the remedy available with me?***

Ans. Section 6 of the Muslim Family Laws Ordinance, 1961 provides punishment in such like cases. You can lodge a complaint for the purpose.

***Q.12. What are the kinds of Talaq?***

Ans. There are three kinds of Talaq ie. Talaq-e-Ahsan, Talaq-e-Hasan and Talaq-e-Biddat.<sup>50</sup>

Talaq-e-Ahsan is the most approved form of divorce. In case of this Talaq, one single revocable divorce is pronounced by a husband who has consummated marriage, during the period in which the wife is free of menstruation and in which she has not been cohabited with leaving her to complete her iddat of the prescribed period of time unless she is pregnant in which case she is delivered of the child.<sup>51</sup>

Talaq-e-Hassan is the second most approved form of divorce by the husband who has consummated the marriage pronounces one divorce during each three successive periods in which wife is free of menstruation has not been conhabited with.<sup>52</sup>

Talaq-e-Bid'at is also called impious divorce. This talaq is effected by pronouncing talaq thrice during the same tuhr, or in pronouncing the formula of talaq once with the condition that it should be considered to have been thrice.<sup>53</sup>

***Q.13. What is the status of Judicial Separation?***

Ans. The Judicial Separation operates as single irrevocable divorce and the parties may remarry without an intervening marriage.

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<sup>50</sup> A Code of Muslim Personal Law By Dr. Tanzil-ur-Rehman

<sup>51</sup> Ibid

<sup>52</sup> Ibid

<sup>53</sup> Ibid



***Q.14. What is the evidentiary value of entries of Nikahnama?***

Ans. The entries of Nikah Nama have got presumption of truth.

***Q.15. What is the concept of Delegation of Talaq?***

Ans. In Islam the right to divorce the wife primarily lies with the husband, however, he may delegate this right to the wife or any other person on his behalf. This delegation can be conditional or unconditional, temporary or permanent.

***Q.16. What are the main considerations for custody of minors?***

Ans. The paramount consideration in such like cases is always the welfare of the minor, however, the other main factors for deciding custody of minor are:

- The age of child
- The sex of child
- The financial status of the parties

***Q.17. Can I submit fresh application for custody of my minor child?***

Ans. Yes, if the circumstances have changed.

***Q.18. Till what age kids are entitled to get maintenance?***

Ans. The minor female is entitled to get maintenance till the time she gets married and the male child till age of majority.

***Q.19. What is the procedure for recovery of future maintenance?***

Ans. You can file an application for execution of the decree. The Court may order the judgment debtor to pay the maintenance allowance on each and every date in the Court. The Court may also direct it to be deposited with the Civil Nazir. You can also through a settlement receive the amount outside the Court from the judgment debtor.

***Q.20. Can I move an application for enhancement of maintenance allowance for my kids?***

Ans. Yes you can. There is difference of opinion on the point as to whether an application during the pendency of the execution is maintainable or a fresh suit is to be brought, however, there is no bar in bringing a fresh suit for the enhancement of the maintenance allowance.

## 4.7 RENT CONTROLLER

The tenancy claims arise out of the agreements made between the landlords and tenants. The tenancy claims relate to the property situated in the rural area or urban area. If the property is situated in the rural area you can pursue your claim as a tenant or a landlord before the revenue authorities. The Urban Rent Restriction Ordinance, 1959 regulates the proceedings pertaining to the tenancy claims of the property situated in the urban area. Under the Urban Rent Restriction Ordinance 1959, the Rent Controller is authorized to deal with the cases between landlords and tenants.

### 4.7.1 How A Landlord Can Evict A Tenant?

If you are a landlord and you want to evict your tenant from the property you will file eviction petition before the Rent Controller. You are required to file the statements of two witnesses in the form of affidavits with your petition. The Rent Controller after getting reply from your opponent and recording of evidence will either dismiss your claim or by acceptance of your claim pass an eviction order. Your opponent will also be required to file at least two statements in the form of affidavits with his reply. You can also claim recovery of rent.

### 4.7.2 Grounds For Eviction of Tenant

The law provides following grounds for filing eviction petition:

1. If the tenant fails to deposit rent of the building or rented land within 15 days after expiry of time fixed in the agreement.
2. If the tenant fails to deposit rent of the building or rented land within sixty days from which rent is payable, in case of absence of any specific agreement.
3. The tenant has sub-let the property or any portion of the property without specific consent of the landlord.
4. The tenant has used the property for a purpose other than for which it was agreed upon.
5. The tenant has infringed any condition of the tenure on which the building or rented land is held by the landlord.
6. The tenant has committed an act which is likely to impair the value or utility of the building or rented land.
7. The tenant has committed any act which has caused nuisance to the occupants of the building in the neighborhood.



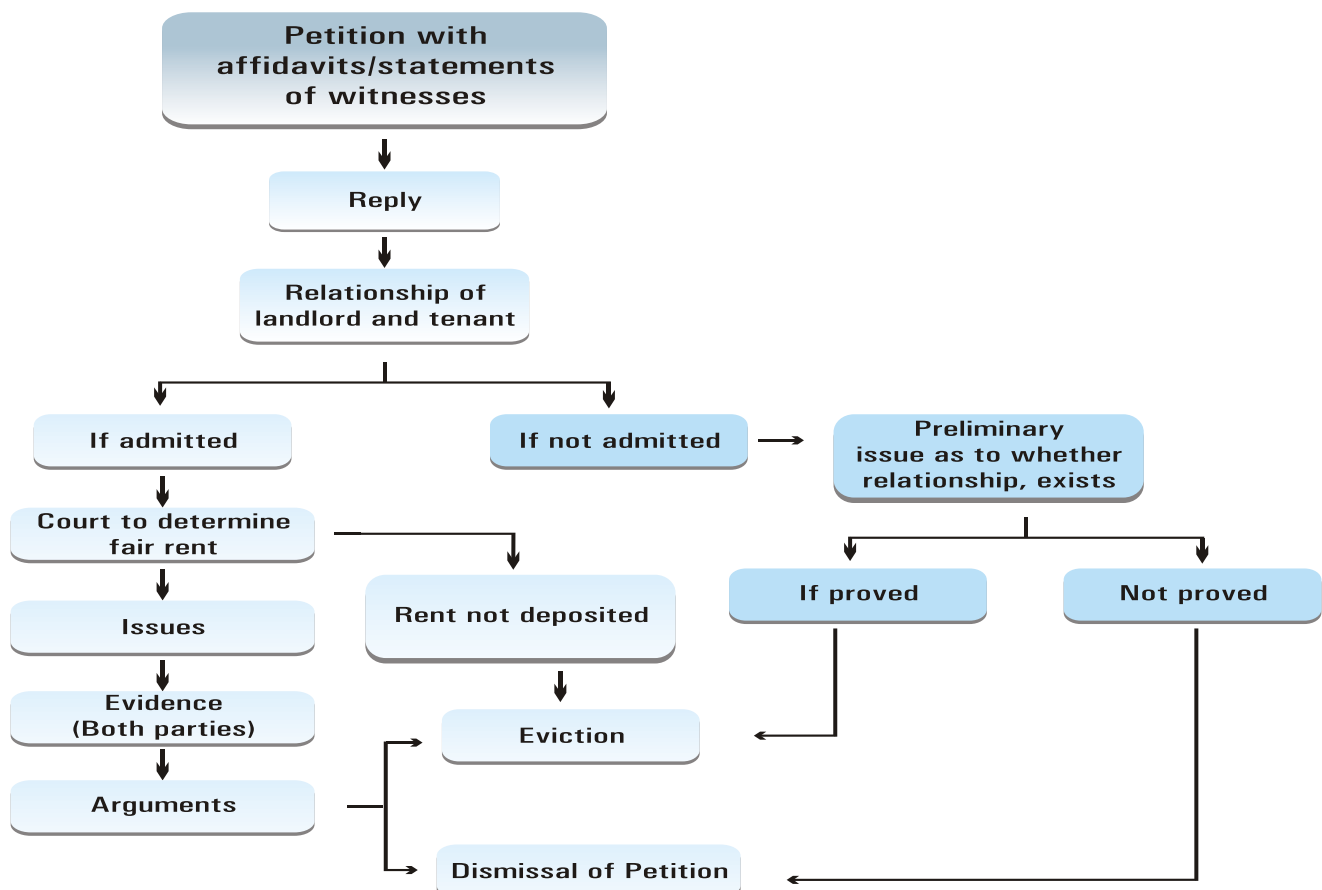
8. The landlord requires the building or the rented land for erection or reconstruction of a building and he has obtained permission from Municipal Committee, Municipal Corporation, Town Committee or the Provincial Urban Development Board.
9. The land lord needs the residential building in good faith for his own occupation or occupation of his children and is not in occupation of any other building suitable for his needs in the same urban area.
10. The land lord needs the non-residential building, schedule building or rented land in good faith for his own use or use of his children and is not in occupation of any other building suitable for business or his needs in the same urban area.

#### 4.7.3 How Can Tenant Bring a Claim Against the Landlord?

If you are a tenant you can also bring a claim against the landlord if he is about to evict you without due process of law or he refuses to do repairs. Similarly if the landlord has enhanced the rent contrary to the contract or refuses to accept the rent, you can bring a claim against him.

#### 4.7.4 Flow Chart of Rent Cases

##### RENT (Eviction & Payments)



**4.7.5 Frequently Asked Questions:**

***Q.1. What is the scope and application of the Urban Rent Restriction Ordinance, 1959?***

Ans. It is applicable to urban areas only.

***Q.2. Can I move a petition for eviction of the tenant if there is a dispute relating to title?***

Ans. No, you have to approach the Civil Court for the purpose.

***Q.3. Is Urban Rent Restriction Ordinance, 1959 applicable to Cantonment Areas?***

Ans. No. Cantonment Rent Restriction Act, 1963 is applicable to the cantonment areas.

***Q.4. Can co-owner bring a claim for eviction against another co-owner?***

Ans. No.

***Q.5. What is the forum and procedure for execution of the order passed by the Rent Controller?***

Ans. The Civil Court is empowered to execute the decision of the Rent Controller.

**4.8 HOW TO OBTAIN ATTESTED COPIES OF THE ORDER OR JUDGMENT?****4.8.1 Attested Copies after decision of the case**

After the decision of the case if you intend to get attested copies of the judgment and order you will have to move an application to the in-charge copying branch for getting the attested copies.

**4.8.2 Attested Copies during pendency of the case**

If you intend to get attested copy of the pending proceedings you will have to move an application to the Court concerned.

The Court Fee Stamp cannot be charged in all criminal cases and those civil cases, the value of the subject matter whereof, or relief claimed wherein, does not exceed twenty five thousand rupees.

## CHAPTER 5

### COURTS OF SENIOR CIVIL JUDGES

Two Senior civil Judges in each district i.e Senior Civil Judge (Admn) and Senior Civil Judge (Judicial) are appointed. The former performs duties of administrative nature while the latter is assigned duty to deal with judicial business.

#### 5.1 SENIOR CIVIL JUDGE (ADMN)

The Senior Civil Judge (Admn) in addition to other duties performs following duties:

1. All matters relating to Process Serving Agency (Nazarat Branch).
2. All related matters of the establishment of Senior Civil Judge/Process Serving Agency including recruitment, posting, transfer, promotion, disciplinary actions, attendance, leave etc and preparation of SNEs for creation of new posts.
3. Stop-gap arrangements of Court staff ( as per necessity).
4. All matters relating to the accounts of Civil Courts including Revenue Deposits, Sheriff Petty Accounts, Minor's Accounts etc and its regular transmission to the quarter concerned including documents preparation thereof.
5. Assist the District & Sessions Judge in supervision of the Oath Commissioners, Notary Public and Deed/Petition Writers with particular reference to their working and fees etc.
6. Maintain list of bail bonds / sureties and its updating on daily basis.
7. Any other administrative task assigned by the District & Sessions Judge concerned.
8. Judicial work as assigned by the District & Sessions Judge concerned.

#### 5.2 SENIOR CIVIL JUDGE (JUDICIAL)

Apart from marking the cases to the civil judges, the Senior Civil Judge (Judicial) is empowered to decide cases of civil and criminal nature. The Senior Civil Judge also performs function under special legislations.

#### 5.3 SUCCESSION ACT

The Khyber Pakhtunkhwa Letter of Administration and Succession Act, 2021 bars the jurisdiction of the civil court to grant Succession Certificate or Letter of Administration, however, where the NADRA authorities decline to process the application the civil Court may exercise jurisdiction.

Succession certificate is a legal document which declares the right of the legal heirs to inherit debt and securities of the deceased who died intestate (one has died without a will).

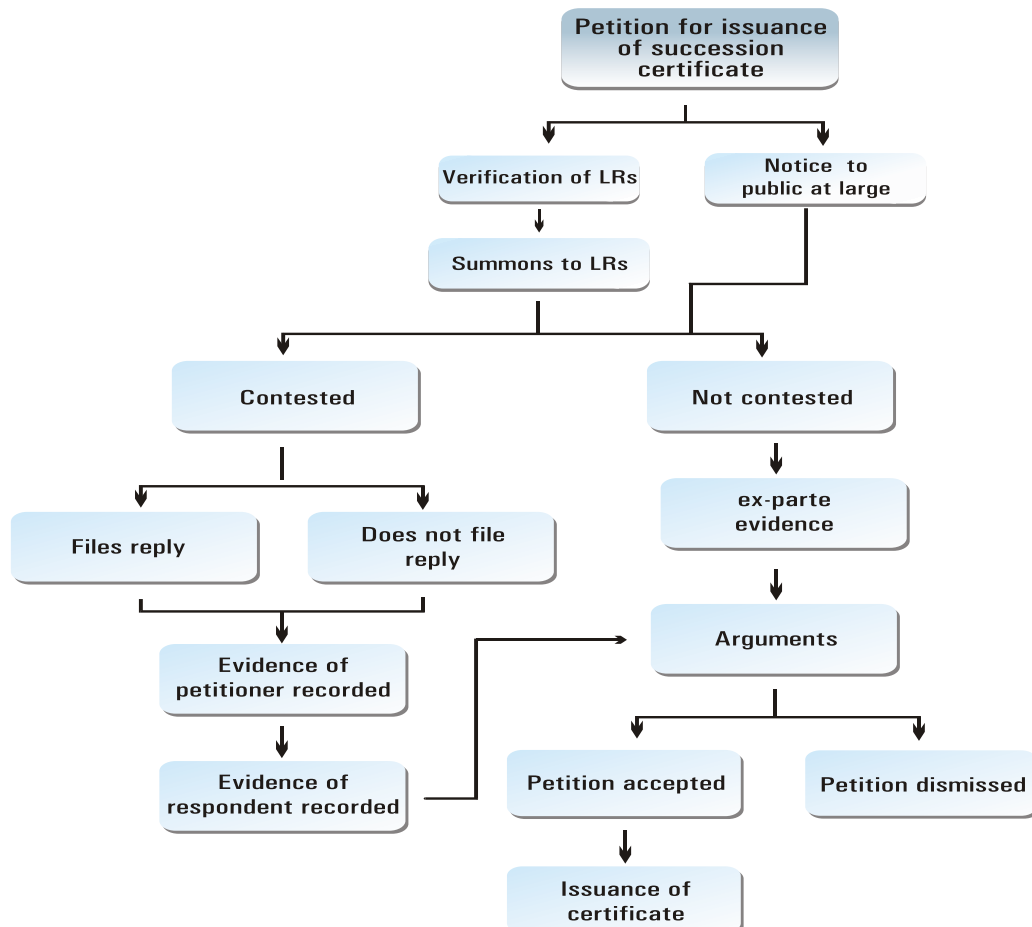
Succession Certificate is issued for the moveable and divisible property of the deceased.

### 5.3.1 How to Initiate Proceedings?

The Court of Senior Civil Judge has the jurisdiction to decide succession cases. If the deceased owes you a debt or you are the legal heir of the deceased you may file petition for issuance of succession certificate to the Court of Senior Civil Judge. The Court after initial scrutiny of the case will direct the bailiff of the court to get verification as to legal heirs of the deceased. The Court may also gather the information from the NADRA authorities and will issue summons, if defendant is not identified to the public at large through publication. If any person appears and intends to contest the claim, he will file reply to the application. After submission of reply the Court will record evidence and pass an order for issuance of Certificate of Succession.

The Court on getting the bond will hand over the Succession Certificate to you.

### FLOW CHART FOR ISSUANCE OF SUCCESSION CERTIFICATE



## 5.4 LETTER OF ADMINISTRATION

If any person died intestate and left the property behind him/her then his/her legal heirs can file a petition for the grant of Letter of Administration. Letter of Administration can be issued for indivisible property of the deceased. It is issued for the purpose of administration of the property of deceased.

### 5.4.1 How to Initiate Proceedings?

If you are the legal heir of the deceased whose property is to be distributed you may move a petition to the Court for grant of Letter of Administration. The Court after verification as to legal heirs of the deceased will issue summons to contesting party, if any. A notice through publication will also be issued to the Public at Large. If anyone contests the claim he/she will file reply to the application and after recording of evidence of both the parties the Court will decide the matter and issue a Letter of Administration.

Court grants the Letter of Administration on executing the bond and submitting the surety.

### 5.4.2 Frequently Asked Questions

***Q.1. Whether the Court granting Succession Certificate has the jurisdiction to determine the disputed status of party?***

**Ans.** No. The Civil Court is empowered to determine the disputed status of the party to get share in the property as inheritance. The proper course for a party whose status is disputed is to approach the competent Civil Court for declaration.

***Q.2. Whether the Court can dispense with requirement of submission of surety in cases of Succession and Letter of Administration?***

**Ans.** Yes. The object of requiring surety is to secure the interest of any such person who may have a share, interest or claim in the moveable or immoveable assets left by the deceased. If the Court is satisfied that the interest of any such person is protected it may dispense with the requirement of submission of surety.

***Q.3. Which Court has the jurisdiction to grant Succession Certificate?***

**Ans.** The Court where the deceased last resided or where the property of the deceased is situated has the jurisdiction to grant Succession Certificate.

## CHAPTER 6

### DISTRICT & SESSIONS COURTS

The District & Sessions Judge is the administrative head of the district. On Judicial side also he exercises certain powers as a Court of original jurisdiction. Appeal and revision also lie against the orders of the Civil Judges/ Judicial Magistrates to the District & Sessions Judges. Additional District & Sessions Judges also exercise equal powers on judicial side. Again the powers exercised by the District & Sessions Judges can be divided into civil and criminal side.

#### 6.1 CIVIL SIDE

##### 6.1.1 Original Jurisdiction

The District & Sessions Judges or the Additional District & Sessions Judges are empowered to try cases of civil nature the valuation of which is above 50 million. They also have the power to try cases of Negotiable Instruments. Several other laws also give exclusive jurisdiction to the District & Sessions Judges to try cases on original side e.g Mental Health Ordinance, KP Removal of Encroachment Act and Defamation Ordinance etc.

##### 6.1.2 Cases Relating to Negotiable Instruments

In addition to the trial of civil suits the District Judges or Additional District Judges are empowered to try cases relating to negotiable instruments on original civil side.

##### 6.1.3 How to Initiate Proceedings?

Order 37 of the Civil Procedure Code provides summary procedure for disposal of disputes relating to negotiable instruments. If you intend to bring a claim as to negotiable instrument you will have to file a plaint before the Court of District Judge.

##### 6.1.4 Leave To Defend

Your opponent will file an application for leave to defend. There is no prescribed method for filing of such an application. The written statement may also be considered as an application for leave to defend.<sup>54</sup> The Court will also require him to file an affidavit disclosing defense.

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<sup>54</sup> 2006 YLR 1510

### 6.1.5 How to Proceed With Trial?

If the Court rejects the plea of your opponent and leave to defend is not granted the Court will grant decree in a summary manner. If the Court grants leave to defend to your opponent the procedure provided in the Civil Procedure Code for trial of suits will follow.

### 6.1.6 Land Acquisition Cases

Right to acquire, hold and dispose of property is a fundamental right<sup>55</sup> of every citizen and he/she cannot be deprived of his/her property. However, this right can be controlled by State if the interest of the general public is involved. State may acquire the property for a public purpose subject to payment of compensation.

### 6.1.7 How To Initiate Proceedings?

The Collector (DC) after determination of suitability of the land for the public purpose issues a notification for acquisition.<sup>56</sup> After this notification the Collector will invite objections. If the notification mentions your property you have the right to file objection as to the suitability of the property at this stage. If your objection is dismissed by the Collector you have the right to file writ petition against the order of the Collector.

After issuance of notification the valuation committee will assess the compensation. After valuation the award will be passed and you will be asked to deliver possession of the property. The government may also get possession of the property before passing of award.

Once your property is acquired you have to deliver possession but you have the right to object over the compensation determined by the government and claim enhancement by filing reference. You have three options:

1. To receive the amount.
2. To receive the amount under protest.
3. Not to receive the amount.

You may also bring a claim relating to the title of the property or as to its apportionment. You can file an objection to the Collector. The Collector after initial scrutiny of your claim will forward the claim to the Court in the form of reference. The Collector may also refuse to forward your claim to the Court.

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<sup>55</sup> Article 23 & 24 of the Constitution of Islamic Republic of Pakistan, 1973

<sup>56</sup> Section 4 of the Land Acquisition Act, 1894

If the Collector decides not to send your claim to the Court you can pursue your claim before the revenue authorities.

The Court to which the claim in the form of reference is forwarded is called the Referee Court. The District Judges or the Additional District Judges or Senior Civil Judges are empowered under the law to decide reference. The Collector will also transfer the amount determined as compensation to the Court which will be kept in the Judicial Accounts.<sup>57</sup>

The Court will then proceed towards recording of evidence and while considering the following factors will either dismiss or grant the claim.

1. Compensation vis a vis market Value of the Property.
2. Location of the Property.
3. Potential value of the property.

The Court may also grant compulsory acquisition charges along with simple interest. If your claim is dismissed you have the right to file an appeal before the High Court.

## **6.2 APPELLATE JURISDICTION**

### **6.2.1 Civil Appeal**

Appeal is the creation of the statute. You can only file appeal where the law specifically provides. Every decree passed under the Code of Civil Procedure is appealable yet it depends on the valuation of the suit to determine the forum of appeal. In civil cases where the value of the suit for the purpose of Court Fee & Jurisdiction is less than 10 million the appeal lies to the District & Sessions Judge otherwise the appeal lies to the High Court.

All the orders are not appealable. Order 43 Rule 1 of the Code of Civil Procedure provides the details of the orders which are appealable.

### **6.2.2 How to Draft An Appeal?**

The memorandum of appeal has to conform to Appendix “G” of the Code of Civil Procedure. The contents of memorandum of appeal must set forth concisely and under distinct heads the grounds of objections to decree. It must be properly valued and court fee should be affixed.

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<sup>57</sup> Section 32 of the Land Acquisition Act, 1894



### 6.2.3 Requirements for Filing Appeal

You have to file the following documents with the memorandum of appeal:

- A copy of decree appealed from.
- Judgment on which it is founded unless dispensed with by the appellate court.

### 6.2.4 Appeal against Orders of Family Court

An appeal lies against the decree passed by Family Court in the following cases:

- For dissolution of marriage only on the ground that the husband habitually assaults the wife or makes her life miserable by cruelty of conduct even if such conduct does not amount to physical ill treatment under Clause viii (a) of Section 2 of the Dissolution of Muslim Marriages Act, 1939.
- For dower or dowry exceeding thirty thousand rupees.
- For maintenance of more than rupees one thousand.

All the other decrees passed by the Family Court including interim orders are not appealable.

### 6.2.5 Appeal against Orders of Rent Controller

An appeal lies against the order of the Rent Controller under Section 15 of the Urban Rent Restriction Ordinance, 1959 to the Court of District & Sessions Judge. You may file an appeal against the following orders:

- An order passed for determination of fair rent under Section 4 of the Urban Rent Restriction Ordinance, 1959.
- An order passed by Rent Controller regarding any dispute between the landlord and tenant in regard to any increase claimed on grounds of some addition, improvement or alteration under Section 5 of the Urban Rent Restriction Ordinance, 1959.
- An order passed by the Rent Controller for repairs by the tenant under Section 12 of the Rent Restriction Ordinance, 1959.
- An order for eviction of tenant passed under Section 13 of the Urban Rent Restriction Ordinance, 1959 except order for eviction of tenant for non-deposit of rent under Section 13 (6).

Interlocutory orders passed under the Rent Restriction Ordinance are not appealable.

## 6.3 CIVIL REVISION

The Court of District Judge also exercises the power of revision against the order of the lower court in the following cases:

- An exercise of jurisdiction not vested in it by law.
- Failure to exercise jurisdiction vested in it.
- Exercise of jurisdiction with illegality or material irregularity.

### 6.3.1 How to File Revision Petition?

You may file an application for revision of the order of the subordinate court on any of the aforementioned grounds. The application must be accompanied by the following:

1. Copies of the pleadings.
2. Documents.
3. Order of the Subordinate court.

### 6.3.2 Limitation for Filing Application

You can file your application within 90 days<sup>58</sup> of the order of the Subordinate Court.

### 6.3.3 Frequently Asked Questions

#### ***Q.1. What is difference between Rule 23 and Rule 25 of the Order 41 of CPC?***

***Ans.*** Upon remand under Order 23 the whole case goes back for trial and disposal to the lower court while under Rule 25 the matter is sent back to the lower court only for recording of evidence or a finding on an issue.

#### ***Q.2. What is period of limitation for filing of review?***

***Ans.*** 90 days as prescribed under Article 173 of the Limitation Act.

#### ***Q.3. What remedy is available when the Appellate Court refuses to reverse the decree on the ground that it has no power?***

***Ans.*** Revision lies against the order of the Appellate Court.

#### ***Q.4. What is the period of limitation for filing of appeal?***

***Ans.*** Article 152 of the Limitation Act provides period of 30 days for filing of appeal to be commenced from the date of the decree or order appealed from.

## 6.4 CRIMINAL SIDE

### 6.4.1 Original Jurisdiction

The District & Sessions Judges or Additional District & Sessions Judges try criminal cases on original side as provided in Schedule II of the Criminal Procedure Code. They exercise original jurisdiction where they have exclusive jurisdiction to entertain and try case e.g Hadd Offences and the Offences provided under the Women Protection Act, 2016.

<sup>58</sup> Section 115 of the Code of Civil Procedure

#### **6.4.2 Illegal Dispossession Act**

Illegal Dispossession Act, 2005 protects the right of the owner and the lawful occupant of the property as against the unauthorized and illegal occupants. The District & Sessions Judges or the Additional District & Sessions Judges have the jurisdiction to try cases under this Act. The law provides a special procedure for disposal of complaint under the Act.

#### **6.4.3 How to Initiate Proceedings?**

If you are dispossessed from your property without due process of law you have the right to file a complaint before the Sessions Judge under Illegal Dispossession Act, 2005.

You will have to prove the following for justification of your claim:

- You are the actual owner or occupant of the property in question.
- The accused has entered into the property without any lawful authority.
- The accused has done so with the intention to dispossess you.

#### **6.4.4 How the Court will Proceed?**

The Court may direct the Officer in Charge of the Police Station to conduct an investigation and to submit report within 15 days. The Court may also mark an inquiry to a revenue officer or to the Magistrate. If the Court reaches a conclusion after inquiry report that there is no substance in your claim, the Court will dismiss the complaint.

If upon inquiry the Court finds that there is some substance in your claim the Court will issue summons to the accused and will conduct the trial in accordance with the procedure provided under the Criminal Procedure Code. After conclusion of the trial if the Court finds that the complainant was illegally dispossessed it will pass an order for restoration of possession of the property and will also impose a punishment which may extend to 10 years. The Court may also grant compensation to you.<sup>59</sup> If your claim is found to be false or frivolous the Court may award compensatory cost to your opponent which may extend to Rs.500,000/.

The Court may also pass an interim order as to restoration of possession if it is satisfied that a person is not in lawful possession. The Court may also attach the property if upon satisfaction it comes to the conclusion that none of the parties was in possession of the property before commission of the offence.

The final judgment/order of the Sessions Judge is appealable before the High Court.

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<sup>59</sup> Section 3 of the Illegal Dispossession Act, 2005.

## 6.5 APPELLATE JURISDICTION

There is no right of appeal in the following cases:

- Where the accused pleads guilty.
- Where the Court of Sessions passes a sentence of imprisonment not exceeding one month and fine not exceeding fifty rupees.
- Where the Magistrate passes a sentence of fine not exceeding fifty rupees.
- Where the court passes sentence of imprisonment in default of payment of fine when no substantive sentence or imprisonment has been passed.
- Where a Magistrate passes a sentence of fine not exceeding two hundred rupees in summary trial.

The right of appeal is provided against the order of the Magistrate to the Court of Sessions.

## 6.6 CRIMINAL REVISION

The Sessions Judge is empowered to call for the record of inferior Criminal Court to ascertain:

- The legality or propriety of the sentence, finding or order.
- The proceedings of the inferior Court are regular.

During the proceedings of revision the Court of Session may suspend the sentence and may also release the accused on bail or on his own bond.

## 6.7 FREQUENTLY ASKED QUESTIONS

### ***Q.1. Whether appeal lies against the order of acquittal under Section 249-A?***

**Ans.** The order of acquittal under Section 249-A is not appealable under Section 417 CrPC, however, the order can be assailed through revision under Section 439-A CrPC.

### ***Q.2. Who can challenge the order of acquittal?***

**Ans.** Order of acquittal can be challenged by the State, complainant or aggrieved party.

### ***Q.3. What is limitation for filing appeal against acquittal?***

**Ans.** 30 days as prescribed by the Criminal Procedure Code

### ***Q.4. Whether the Appellate Court can alter the sentence?***

**Ans.** Yes, but subject to the condition that the altered conviction cannot be such which cannot have been recorded by the Trial Court.

## CHAPTER 7

### PESHAWAR HIGH COURT

The Peshawar High Court is the apex court in the Khyber Pakhtunkhwa. The Establishment of West Pakistan Act, 1955, which created the province of West Pakistan, comprised, inter alia, the N.W.F.P. Soon after the enactment of the said law, a separate High Court for the province of West Pakistan was created under the High Court of West Pakistan (Establishment) Order, 1955, Lahore as its principal seat and benches at Karachi and Peshawar. This repealed the former Lahore High Court, the Chief Court of Sindh and the Judicial Commissioner Court in the N.W.F.P. and Baluchistan and any other Court functioning as High Court for any other specified territories.

Consequent upon the dissolution of One Unit, which created four provinces and a High Court for each of these provinces, the President issued a separate Order for the establishment of High Courts; according to which the High Court for the N.W.F.P had to be called Peshawar High Court, with its principal seat at Peshawar. Under this law the High Court of N.W.F.P. and others were given such powers, which were conferred on the High Court of West Pakistan.<sup>60</sup>

The Peshawar High Court has its benches at Abbottabad, Mingora, Bannu and D.I.Khan. The Benches at Abbottabad and D.I.Khan were created under the Constitution of Pakistan, 1973 while Swat and Bannu benches were created vide notification No SO(E-I)E&AD/9-94/95 dated 5<sup>th</sup> April, 2007.

The sanctioned strength of the judges of the Peshawar High Court is 20 while the current strength is 14.

It exercises following jurisdictions:

#### 7.1 WRIT JURISDICTION

Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 deal with the exercise of writ jurisdiction by the High Court. Writ jurisdiction is an extraordinary jurisdiction of the High Court and can be exercised only when no alternate and effective remedy is available. There are five kinds of writs:

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<sup>60</sup><https://peshawarhighcourt.gov.pk/app/site/32/c/History.html>

### 7.1.1 Writ of Certiorari

By means of certiorari the record and proceedings are called for by the High Court with a view to examining their legality, and if the High Court comes to the conclusion that the inferior tribunal has acted in excess of its jurisdiction or in a manner which is opposed to the principles of natural justice or that there is an error apparent on the face of the record, the impugned orders are quashed by it and put out of the way.<sup>61</sup>

### 7.1.2 Writ of Mandamus

Mandamus is the command issued from a court to any person, authority or inferior court requiring them to perform the specific act which they are under a statutory obligation to do, but which they either failed or refused to do.<sup>62</sup>

### 7.1.3 Writ of Prohibition

A writ of prohibition is issued to prohibit an inferior body or tribunal from continuing an act in relation to a matter which is beyond its authority or jurisdiction.<sup>63</sup> A writ of certiorari is remedial whereas writ of prohibition is preventive.<sup>64</sup>

### 7.1.4 Writ of Habeas Corpus

The object of writ is to secure the liberty of the subject by means of a summary adjudication of the legality of his detention. It is immaterial whether the person applying has been detained in public or private custody.<sup>65</sup>

### 7.1.5 Writ of Quo Warranto

This writ is issued upon an information which may be lodged against a person who claims or usurps “office, franchise or liberty,” and upon such information being laid the court will inquire by what authority the person who claims or has usurped the office, supports his claims.<sup>66</sup>

## 7.2 APPELLATE JURISDICTION

### 7.2.1 Civil

An appeal lies against the order of the District & Sessions Judge/ Additional District &

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<sup>61</sup> Fundamental Law of Pakistan By AK Brohi, Page 469

<sup>62</sup> Fundamental Law of Pakistan By AK Brohi, Page 458

<sup>63</sup> Fundamental Law of Pakistan By AK Brohi, Page 469

<sup>64</sup> Fundamental Law of Pakistan By AK Brohi, Page 470

<sup>65</sup> Fundamental Law of Pakistan By AK Brohi, Page 453

<sup>66</sup> Fundamental Law of Pakistan By AK Brohi, Page 511

Sessions Judge to the High Court in the cases under Civil Procedure Code. If the valuation of the suit for the purpose of Court Fee and Jurisdiction exceeds 10 million rupees then appeal lies to the High Court against the order of the Civil Judge.

All other laws provide a separate mechanism for filing of appeals.

Under Article 156 of the Limitation Act, 1908 the period of limitation for filing of appeal is 90 days.

### **7.2.2 Criminal**

An appeal lies to the High Court in the following cases:

- Against an order of conviction passed by Assistant Sessions Judge where he passed a sentence of imprisonment exceeding four years.
- Against an order of conviction passed by Magistrate for an offence under Section 124-A of the Pakistan Penal Code.
- Under Section 410 of the Code of Criminal Procedure an appeal lies to the High Court against the order of conviction passed by Sessions Judge or Additional Sessions Judge.

Under Article 155 of the Limitation Act, 1908 the period of limitation for filing of appeal is 60 days except in cases of death sentence where Article 150 provides 7 days for filing of appeal.

### **7.2.3 Appeal Against Acquittal**

The appeal against acquittal may be filed against the original or appellate order of any court to the High Court. The appeal may be filed by the Public Prosecutor upon the directions of the Provincial Government.

A complainant may only file an appeal against acquittal upon grant of special leave to appeal by the High Court. The appeal can only be filed within thirty days and application for special leave to appeal can only be entertained within sixty days.<sup>67</sup>

If the special leave to appeal is not granted to the complainant the Public Prosecutor cannot file an appeal against acquittal.

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<sup>67</sup> Section 417 of the Criminal Procedure Code



### 7.3 REVISIONAL JURISDICTION

The High Court has the power of revision against the order of the lower courts in the following cases:

- To have exercised jurisdiction not vested in it by law.
- To have failed to exercise jurisdiction vested in it.
- Exercised jurisdiction with illegality or material irregularity.

On the criminal side the High Court may call for the record of any proceeding before any inferior criminal court in the following cases:

- For satisfaction as to the correctness, legality or propriety of any finding, sentence or order.
- For checking the regularity of any proceedings of any such court.

During the proceedings of revision the High Court may suspend the sentence and may also release the accused on bail or on his own bond.

### 7.4 HOW TO INTIATE PROCEEDINGS?

All appeals, applications for review and revision can be presented by the litigant in person or by his Advocate to the Deputy Registrar. Urgent applications are, however, to be presented personally by the litigant.

The important points to be remembered are:

- Every memorandum of appeal, application for review or revision shall be in English.
- Memorandum of appeal shall be accompanied by copies of the decree or judgment.
- Every memorandum of appeal or application shall specify the section of enactment under which the appeal or application lies.
- The revision petition shall be accompanied by the copy of the judgment or order of the court of first instance.
- Application for review of order of Single or Division Bench of the High Court shall be signed by the Advocate presenting the petition and application will not be entertained without a certificate to the effect that the grounds mentioned in the application are good and sufficient for review of order.



- A party seeking review of order is required to furnish Rs.10, 000 as security which shall be forfeited in case of dismissal of the review petition and shall be paid to the opposite party if the petition is contested.
- The review application shall be filed by the Advocate who argued the case resulting into the order sought to be reviewed.
- A revision petition against order of acquittal shall be accompanied by a copy of an order of the Magistrate of the District.
- A revision petition or transfer application shall be accompanied by the attested copies of the documents of reliance.
- Original record of a criminal case shall not be requisitioned. The copies prepared and certified by the Investigation Officer may, however, be requisitioned:
  - Petitions for superdari/quashment of case/ order.
  - Appeals/revision against interlocutory orders.
  - Appeals against acquittal in motion.
  - Any other miscellaneous application moved during investigation/trial.

#### **7.4.1 Sub Registries for Institution of Cases**

Sub Registries have been established in the Districts for the institution of new cases. The Superintendents of the offices of the District & Sessions Judges have been appointed as in-charge of the registries.

### **7.5 SERVICES PROVIDED AT THE PESHAWAR HIGH COURT**

#### **7.5.1 e-KIOSK**

e-KIOSK facility is available in the Peshawar High Court. In the e-KIOSK system you can search your case by Case No, Year and by Title. You can also search your case in the online cause list and the disposal list available at the website of the Peshawar High Court. The cause lists of the Benches are also available on the website. A red cause list is also prepared and the cases are fixed on the red cause list keeping in view the nature of urgency of the case.

#### **7.5.2 e-Mail & SMS**

The copies of the judgments of the writ petitions are shared through e-mail. Emails are also used for communication of the judgments of Hon'ble Supreme Court of Pakistan passed on

appeals/orders against the orders of the Peshawar High Court. The following documents are shared with parties / counsel via e-mail immediately after these are filed, checked, scanned and uploaded to the database.

- i. CN Complete file (at institution time)
- ii. Grounds
- iii. Comments
- iv. Re-Joinder
- v. CMs (all types)
- vi. Cr.M (all types)
- vii. Replies
- viii. Order Sheets
- ix. Final Judgment

The Peshawar High Court has also launched an SMS alert system for providing immediate information to the lawyers. The information provided through SMS includes any objection raised by the office on freshly instituted cases, the next date fixed in the cases, all cases of an individual lawyer etc. This facility can be availed only by such lawyers who get themselves registered with the I.T Branch of the Peshawar High Court.

### 7.5.3 Video Link Facility

Video link facility is available in the Peshawar High Court. The hearing of the cases is conducted through virtual proceedings.

## 7.6 HOW TO GET ATTESTED COPIES IN PESHAWAR HIGH COURT?

You can get attested/ certified copy of the order/ judgment or any other document under the law by giving fee according to the following details:

Nature of Order/ Application	Fee
In all civil cases, other than Writ and Intra-Court Appeals, where the value for the purpose of jurisdiction exceeds twenty five thousand rupees	Court Fee stamp of two rupees shall be affixed on applications submitted for attested copies
Attested copies in Writ Petitions and Intra Court Appeals	Court Fee stamp of two rupees shall also be affixed on applications
In all civil cases, other than Writ and Intra-Court Appeals, where the value for the purpose	Court Fee stamp of four rupees shall be affixed on

of jurisdiction exceeds twenty five thousand rupees	every copy of decree and final order
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In charge copying branch will also collect copying fee in advance at the following rates for photostat expenses:

Nature of order	Fee to be Charged
Copy of order of bail petition and interim injunction	Rs. 20/-
Copy of final judgment	Rs. 50/-
Copy of record	Rs.100/-

The additional amount, if any, shall be recovered from applicant and surplus, if any, shall be refunded to applicant at the time of providing attested copies.

The copying agents of the offices of the District & Sessions Judge are also empowered to certify and issue certified copies of the orders of the Peshawar High Court and the benches.

## 7.7 FREQUENTLY ASKED QUESTIONS

**Q.1.** *Where in the same trial some of the accused are sentenced to imprisonment for more than four years and some for less than that period, where will appeal lie?*

**Ans.** An appeal by those sentenced for less than four years would also lie to the High Court.

**Q.2.** *What if the accused who were sentenced to more than four years imprisonment did not file an appeal?*

**Ans.** Even in that case the appeal would lie to the High Court.

**Q.3** *What is a notice case?*

**Ans.** When the High Court after hearing the party issues notice to the other party.

**Q.4** *What is a motion case?*

**Ans.** The case fixed for preliminary hearing in the court where the presence of the opposite party is not required.

**Q.5.** *Am I supposed to pay any amount demanded by the staff for getting attested copies?*

**Ans.** You will only pay the amount fixed under the law for getting certified copies.

**Q.6.** *What is the remedy available to me in case the staff is demanding extra money?*

**Ans.** You can file a complaint to:

- The Registrar of the Peshawar High Court ; or
- Member Inspection Team ; or
- In charge Eradication of Corruption Cell ; or
- Director Human Rights Cell.

**Q.7.** *Can I get attested copy of the order/ judgment from the copying branch of Charsadda if the matter relates to District Nowshera?*

**Ans.** No, the Peshawar High Court in order to facilitate the litigants has extended the services of the copying branch to the districts but the copying agent of the office of the District & Sessions Judge of the district can only issue copy of the order/ judgment of the matter which relates to his district.

## **7.8 ERADICATION OF CORRUPTION CELL<sup>68</sup>**

To eliminate the evil of corruption from the Subordinate Judiciary of Khyber Pakhtunkhwa, you can file a complaint against the officers and officials of the subordinate judiciary to the In-charge Eradication of Corruption Cell. The Cell is headed by a senior sitting hon'ble judge of the Peshawar High Court .

You can send your complaint through:

- Post/Registry,
- Email: [phc-ecc@peshawarhighcourt.gov.pk](mailto:phc-ecc@peshawarhighcourt.gov.pk).

Requirements for complaint are as under:

- Full name of the concerned officer/ official, status/post and nature of corruption in writing.
- Full name, father name, copy of CNIC, mobile or telephone number of the complainant.
- The nature of the case.

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<sup>68</sup><https://peshawarhighcourt.gov.pk/app/site/>

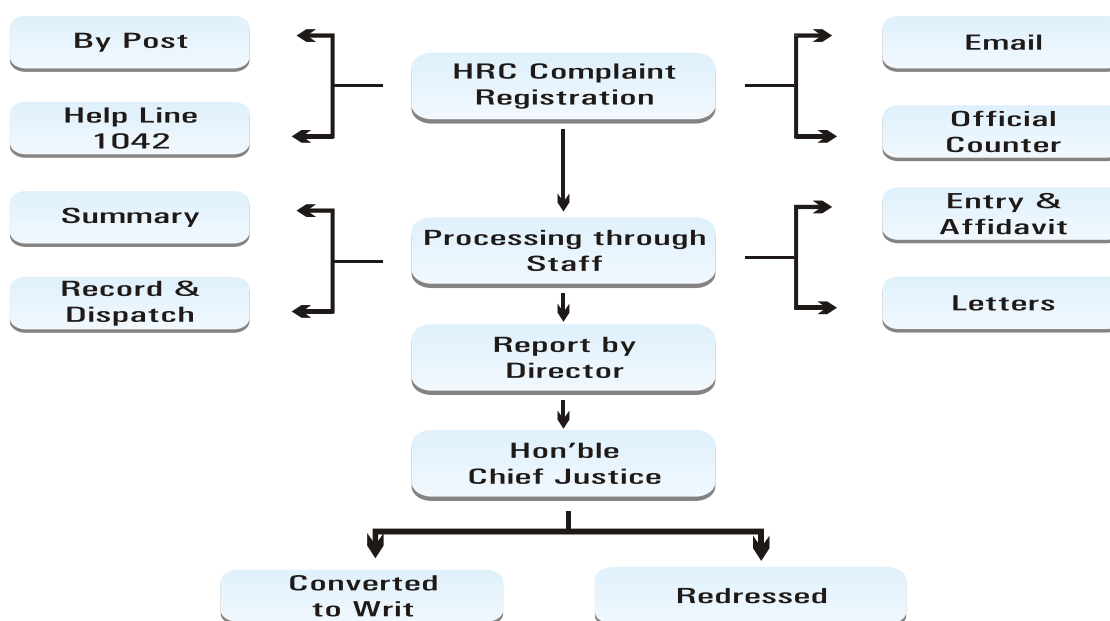
## 7.9 HUMAN RIGHTS CELL <sup>69</sup>

A Human rights Cell was established in the Peshawar High Court in the year 2009. The Cell functions under the direct supervision of the Hon'ble Chief Justice, Peshawar High Court.

The objectives of Human Right Cell include:

- To ensure expeditious and inexpensive remedy in matters relating to infringements of fundamental rights.
- To give the public a sense of ownership of the Peshawar High Court as an institution committed to serve them in furtherance of their rights.
- All the available resources should be converged to service delivery without resorting to the conventional and protracted technicalities so as to have a quick redress of grievance.
- Grievance should be redressed in a manner involving zero expenditure of the aggrieved.
- To institutionalize an effective response to the communication of the people relating to infringements of their fundamental rights.
- To provide an efficacious alternate remedy for the redressal of the public grievances.

### 7.9.1 Complaint Processing Procedure <sup>70</sup>



<sup>69</sup><https://peshawarhighcourt.gov.pk/app/site/>

<sup>70</sup><https://peshawarhighcourt.gov.pk/app/site/>

## CHAPTER 8

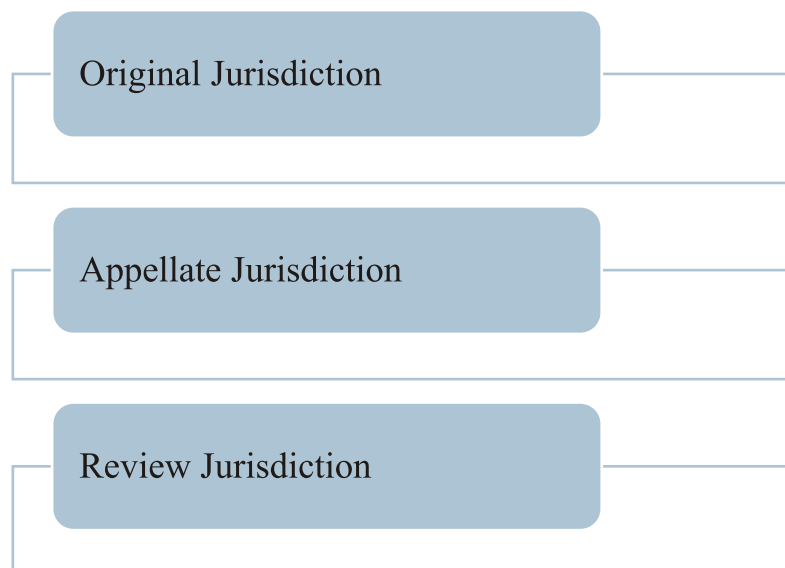
### SUPREME COURT

#### 8.1 e-KIOSK

The facility of e-KIOSK is available in the Supreme Court of Pakistan. From the website of the Supreme Court of Pakistan you can search your case by party name or by case number. Similarly the status of certified copy can also be searched through this facility.

#### 8.2 JURISDICTION EXERCISED BY THE SUPREME COURT

The Supreme Court of Pakistan is the highest appellate court of the country. It exercises following jurisdictions<sup>71</sup>:



##### 8.2.1 Original Jurisdiction:

The Supreme Court exercises original jurisdiction under Article 184 of the Constitution of Islamic Republic of Pakistan which include the disputes between two governments and the matters of public importance like any violation of fundamental rights. Anyone can invoke the jurisdiction of Supreme court by filing a Petition under Article 184 (3) of the constitution.

##### 8.2.2 Appellate Jurisdiction (Civil):

Against the orders of High Court in civil cases and those of Service Tribunal, you can invoke the jurisdiction of Supreme Court by filing:

<sup>71</sup><https://www.supremecourt.gov.pk/frequently-asked-questions/>

1. Civil Petition for leave to appeal under Article 185 (3) of the Constitution within 60 days from date of order/judgment of High Court.
2. Civil Petition for leave to appeal under Article 212 (3) of the Constitution within 60 days from date of order/judgment of Service Tribunal.
3. Civil Appeal under Article 185 (2) (d) & (e) of the Constitution within 30 days from date of order/judgment of High Court.
4. Civil Appeal otherwise provided in any other law/statute within the time as provided in that law/statute.

### **8.2.3 Appellate Jurisdiction (Criminal):**

Against the orders of High Court in criminal cases, you can invoke the jurisdiction of Supreme Court by filing:-

1. Criminal Petition for leave to appeal under Article 185(3) of the Constitution within 30 days from date of order/judgment of High Court.
2. Criminal Appeal under Article 185 (2) (a) (b) & (c) of the Constitution within 30 days from date of order/judgment of High Court.
3. Criminal Appeal under Section 19 of the Contempt of Court Ordinance, 2003 and Section 476 of the Criminal Procedure Code, 1898 within 30 days from date of order/judgment of High Court.
4. Jail Petition for leave to appeal under Rule 3, Order XXIII of the Supreme Court Rules, 1980 within 30 days from date of order/judgment of High Court.

### **8.2.4 Appellate Jurisdiction (Shariat Cases):**

Against the orders/judgments of Federal Shariat Court, you can invoke the jurisdiction of Supreme Court by filing:

1. Civil Shariat Appeal under Article 203-F (1) of the Constitution against final decision of Federal Shariat Court in proceedings where under Article 203-D of the Constitution, Federal Shariat Court decides the question as to whether or not any law or provision of law is repugnant to the injunctions of Islam within 60 days from date of order / judgment of Federal Shariat Court. Time limit for Federation or a Province is 6 Months.
2. Civil Shariat Petition under Article 203-F (2B) of the Constitution in the above matter against interim order within 60 days from date of order of Federal Shariat Court.

3. Criminal Shariat Appeal under Article 203-F (2A) of the Constitution in criminal cases within 30 days from date of order/judgment of Federal Shariat Court.
4. Criminal Shariat Petition under Article 203-F (2B) of the Constitution in criminal cases within 30 days from date of order/judgment of Federal Shariat Court.

### 8.2.5 Review Jurisdiction:

If you are aggrieved by a judgment/order of the Supreme Court you can file Review Petition under Article 188 of the Constitution, read with Order XXVI of the Supreme Court Rules, 1980. Cash Security of Rs.10,000/- is required to be deposited in Federal Treasury, receipt whereof is to be attached with the Review Petition.

## 8.3 HOW TO FILE A CASE IN SUPREME COURT?

An Advocate-on-Record duly enrolled in Supreme Court of Pakistan can be engaged for filing of cases<sup>72</sup>. An Advocate-on-Record can instruct an Advocate of Supreme Court to appear for pleading the case before Supreme Court.<sup>73</sup> Petitions and appeals can be filed in person by the party, if so desired. The procedure for filing cases/documents is prescribed in the Supreme Court Rules, 1980.

## 8.4 WORKING HOURS & TIME FOR CASE FILING<sup>74</sup>:

### WINTER

**Monday to Saturday** (except Friday): 8:30 am to 3:30 pm

**Friday:** 8:30 am to 12:00 noon.

### SUMMER

**Monday to Saturday** (except Friday): 8:30 am to 2:30 pm

**Friday:** 8:30 am to 11:00 am.

<sup>72</sup>Rule 14 & 15 of Order IV of Supreme Court Rules, 1980

<sup>73</sup> Rule 6 of Order IV of Supreme Court Rules, 1980

<sup>74</sup><https://www.supremecourt.gov.pk/frequently-asked-questions/>



## 8.5 ONLINE CASE STATUS

You can check the online case status and cause list on the official website of the Supreme Court of Pakistan.

## 8.6 VIDEO LINK FACILITY

Upon issuance of the cause list the advocate or the petitioner in person may apply for video link facility. Video link facility can be availed after a formal request for the purpose which can be entertained after proper scrutiny.

## 8.7 HOW TO GET COPY OF JUDGMENT/ ORDER?

- Certified copies are issued as per Order IX of the Supreme Court Rules, 1980.
- A party to a case who has appeared can get copy of documents on payment of prescribed fee.
- A person who is not party to a case, can also get a copy on payment of prescribed fee.
- At Information Desk of the Supreme Court, prescribed forms are available which can be filled in by the applicant and after affixing requisite Court fee can obtain a certified copy.
- As per Part-II of Third Schedule to Supreme Court Rules, 1980 Court Fee Stamp of Rs.5/- is affixed upon every certified copy of Order/Judgment/Document in addition to the folio charges. For folio charges upon one page Order/Judgment/Document Court Fee Stamp of Rs.1.86 is also affixed.
- The applicant can also approach any of the Branch Registries to apply and then to receive the certified copies from there accordingly.

## 8.8 HUMAN RIGHTS CELL

The Human Rights Cell processes applications/complaints of violation of fundamental rights on behalf of poor, downtrodden and deprived individuals/segments of society. You can apply to the Human Rights Cell by sending an application through post.<sup>75</sup>

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<sup>75</sup><https://www.supremecourt.gov.pk/frequently-asked-questions/>

**8.9 FREQUENTLY ASKED QUESTIONS:**

***Q.1. Whether a person can approach the Supreme Court to get a case transferred pending in Family Court in one Province to the Family Court in any other Province?***

***Ans.*** Yes, by filing a Civil Misc. Application under Section 25-A (2b) of West Pakistan Family Courts Act, 1964 either in person or through Advocate-on-Record.<sup>76</sup>

***Q.2. What remedy is available to me if there is non-compliance of order of Supreme Court in any case?***

***Ans.*** The aggrieved party can file a Criminal Original Petition (commonly known as Contempt Petition) under Article 204 of the Constitution read with Contempt of Court Ordinance, 2003.<sup>77</sup>

***Q.3. Can Registrar, Supreme Court refuse to receive a Petition or document?***

***Ans.*** Yes, if it has not been filed in accordance with the Supreme Court Rules or is frivolous or contains scandalous matter.<sup>78</sup>

***Q.4. What remedy is available to the aggrieved party if the Registrar returns or refuses to receive a petition or document?***

***Ans.*** The aggrieved party can file a Misc. Appeal against such refusal within 14 days.<sup>79</sup>

***Q.5. What remedy is available to an accused if he is in jail, after being convicted by the High Court?***

***Ans.*** The convicted person can invoke the jurisdiction of Supreme Court either by sending a Jail Petition for Leave to Appeal through the concerned Jail authorities or by filing Criminal Petition for Leave to Appeal through lawyer/Advocate-on-Record within 30 days from date of order/judgment of High Court.<sup>80</sup>

<sup>76</sup><https://www.supremecourt.gov.pk/frequently-asked-questions/>

<sup>77</sup><https://www.supremecourt.gov.pk/frequently-asked-questions/>

<sup>78</sup><https://www.supremecourt.gov.pk/frequently-asked-questions/>

<sup>79</sup><https://www.supremecourt.gov.pk/frequently-asked-questions/>

<sup>80</sup><https://www.supremecourt.gov.pk/frequently-asked-questions/>

***Q. 6. Under what provision the Supreme Court exercises suomoto jurisdiction?***

Ans. The Supreme Court exercises suomoto jurisdiction under Article 184 (3) of the Constitution of Islamic Republic of Pakistan.

***Q. 7. Can I inspect the record of case of the Supreme Court?***

Ans. Yes, on payment of prescribed fee and charges.

***Q.8. What are the requirements for filing a petition for appeal?***

Ans. The petition of appeal shall be accompanied by:

- (i) Certified copies of the judgment and decree or final order appealed against, and of Courts below;
- (ii) A certified copy of the certificate granted under Article 185 (2) (f) where that certificate is not embodied in the judgment; and
- (iii) An affidavit of service of copy of the petition of appeal on the respondent.

## APPENDIX

## TEMPLATES

## BEFORE THE SENIOR CIVIL JUDGE

DISTRICT \_\_\_\_\_

*District Name*

Case No. \_\_\_\_\_ / \_\_\_\_\_

*Year*

vs.

*Plaintiff(s)**Defendant(s)**Address**Address**Phone number (Cell/Landline)**Phone number (Cell/Landline) [if known]**Email**Email***SUIT FOR RECOVERY OF DAMAGES TO THE TUNE OF RS.****FOR MALICIOUS PROSECUTION**

1. The plaintiff submits as under:-
2. That plaintiff is a respectable, peaceful and law abiding citizen;
3. That the defendant charged the plaintiff in a false and concocted criminal case registered vide FIR No. \_\_\_\_\_ dated \_\_\_\_\_ under section(s) \_\_\_\_\_ Police Station \_\_\_\_\_ District \_\_\_\_\_, so as to damage the honor, dignity, respect and reputation of the plaintiff in the society; (copy of FIR is annexed)
4. That plaintiff was arrested in the said case and was unnecessarily dragged into the Police Station/Jail as well as in the Courts;

5. That plaintiff faced the police investigation and was also confined in the Police Station/Judicial lockup;
6. That the plaintiff was also sent to the jail and thus the liberty of the plaintiff was curtailed;
7. That the plaintiff hired lawyers and spent a lot of money on the lawyers fee so as to defend himself;
8. That the plaintiff also faced criminal trial and suffered the rigors of trial for a long time;
9. That on conclusion of trial, the plaintiff was found innocent and was ultimately acquitted from the false charge; (copy of judgment is annexed)
10. That plaintiff was falsely charged on the basis of *malafide*, without any reasonable and probable cause;
11. That the objective of the defendant behind this false charge was to damage the plaintiff financially, socially and in terms of reputation in which the defendant succeeded thereby the plaintiff suffered physically, mentally causing irreparable damage to the respect, honour, dignity and the reputation of the plaintiff in the society;
12. That the mental torture, physical confinement in jail, and damage to respect, honour, dignity and reputation cannot be compensated in terms of money, but in order to minimize the sufferings of the plaintiff, this suit is filed for recovery of Rs. \_\_\_\_\_/- as damages for the malicious prosecution with following breakup;
  - a. Damage to respect, honour, dignity and reputation Rs. \_\_\_\_\_
  - b. Mental agony Rs. \_\_\_\_\_
  - c. Counsel fee and other expenses incurred on litigation Rs. \_\_\_\_\_
  - d. Miscellaneous expenses Rs. \_\_\_\_\_
13. That the defendant was asked to accept the claim of the plaintiff but initially he was reluctant and finally on \_\_\_\_\_ denied to accept the claim of the plaintiff, hence, this suit.
14. That cause of action arose to the plaintiff firstly on registration of false criminal case and lastly on denial of the defendant to accept the genuine claim of the plaintiff on \_\_\_\_\_, within the jurisdiction of this honourable Court;

15. The suit is valued for the purpose of court fee as Rs. \_\_\_\_\_ and jurisdiction as Rs. \_\_\_\_\_

**P R A Y E R**

In the light of above facts it is respectfully prayed that decree for recovery of Rs. \_\_\_\_\_ as damages for malicious prosecution along with other expenses as well as the costs of this suit may graciously be granted in favour of the plaintiff and against the defendant.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature of Plaintiff or his Counsel

**V e r i f i c a t i o n**

Verified on this \_\_\_\_ day of \_\_\_\_\_ 20\_\_ at \_\_\_\_\_ (city) on solemn affirmation that the contents of this suit from para No. \_\_\_\_ to \_\_\_\_ are true to the best of my knowledge and rest to the best of my belief.

\_\_\_\_\_  
Signature/Thumb Impression  
of the Plaintiff/Attorney

**BEFORE THE SENIOR CIVIL JUDGE  
DISTRICT \_\_\_\_\_**

*District Name*

Case No. \_\_\_\_\_ / \_\_\_\_\_  
*Year*

_____ <i>Plaintiff(s)</i>	vs.	_____ <i>Defendant(s)</i>
_____ <i>Address</i>		_____ <i>Address</i>
_____ <i>Phone number (Cell/Landline)</i>		_____ <i>Phone number (Cell/Landline) [if known]</i>
_____ <i>Email</i>		_____ <i>Email</i>

**SUIT FOR SPECIFIC PERFORMANCE OF CONTRACT**

1. The plaintiff submits as under:-
2. That plaintiff and defendant entered into a contract on \_\_\_\_\_  
whereby the defendant agreed to sell his property  
\_\_\_\_\_ in consideration of Rs. \_\_\_\_\_/-
3. That plaintiff paid Rs. \_\_\_\_\_ ☐ in cash/ ☐ through cheque as advance  
money and thereafter offered the defendant to receive the remaining sale  
consideration, but the defendant refused to receive the same;
4. That plaintiff has performed his part of the contract, but the defendant is reluctant to  
perform his part so as to complete the transaction;
5. That the refusal of the defendant is totally illegal, unlawful and based on mala fide;
6. That defendant is legally bound to perform his part of the contract;

7. That the defendant was time and again asked to perform his part of the contract but he refused on \_\_\_\_\_ compelling the plaintiff to file this suit.
8. That cause of action firstly arose to the plaintiff on \_\_\_\_\_ at \_\_\_\_\_ when the parties entered into the contract and lastly on denial of the defendant on \_\_\_\_\_ and thus the suit is within time;
9. That the parties are the residents of \_\_\_\_\_ and the subject matter also situates \_\_\_\_\_; thus the court has the jurisdiction to entertain and try the suit.
10. The suit is valued for the purpose of court fee at Rs \_\_\_\_\_ and jurisdiction at Rs. \_\_\_\_\_.

**P R A Y E R**

In the light of above facts it is respectfully prayed that decree for specific performance of contract may graciously be granted in favour of the plaintiff and against the defendant along-with costs of the suit.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature of Plaintiff or his Counsel

**V e r i f i c a t i o n**

Verified on this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_ at \_\_\_\_\_ (city) on solemn affirmation that the contents of this suit from para No. \_\_\_\_\_ to \_\_\_\_\_ are true to the best of my knowledge and rest to the best of my belief.

\_\_\_\_\_  
Signature/Thumb Impression  
of the Plaintiff/Attorney



## BEFORE THE SENIOR CIVIL JUDGE

DISTRICT \_\_\_\_\_

*District Name*Case No. \_\_\_\_\_ / \_\_\_\_\_  
*Year*

VS.

*Plaintiff(s)**Defendant(s)**Address**Address**Phone number (Cell/Landline)**Phone number (Cell/Landline) [if known]**Email**Email***SUIT FOR RENDITION OF ACCOUNTS AND DISSOLUTION OF PARTNERSHIP**

1. The plaintiff submits as under;
2. That the plaintiff and defendant(s) have been for the last \_\_\_\_\_ years/months carrying on business together under articles of partnership in writing ☐ / under a verbal agreement ☐.
3. Many disputes and differences have arisen between the plaintiff and the defendant in connection with the partnership and the defendant has committed following acts in breach of the partnership:-
  - (a) \_\_\_\_\_
  - (b) \_\_\_\_\_
  - (c) \_\_\_\_\_

It has, therefore, become impossible for the plaintiff to carry on the business in partnership.

4. That plaintiff claims as under
  - (i). Dissolution of the Partnership
  - (ii). Renditions of accounts
  - (iii)\_\_\_\_\_ (any other fact relevant to the controversy)
5. That the defendant was asked to accept the claim of the plaintiff but s/he refused/ denied.
6. That the cause of action arose on\_\_\_\_\_ when defendant refused to accept the claim of the plaintiff, therefore the suit is within time.
7. That the parties are the residents of \_\_\_\_\_ and the subject matter also situates \_\_\_\_\_; thus this court has the jurisdiction to entertain and try the suit.
8. The suit is valued for the purpose of court fee as Rs \_\_\_\_\_ and jurisdiction as Rs. \_\_\_\_\_

### **P R A Y E R**

In the light of above facts it is respectfully prayed that decree for dissolution of partnership and rendition of accounts may graciously be granted in favour of the plaintiff and against the defendant along with costs of the suit.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature of Plaintiff or his Counsel

### **V e r i f i c a t i o n**

Verified on solemn affirmation on\_\_\_\_\_ (day) at \_\_\_\_\_ (place)

That the contents of this suit from para No. \_\_\_\_\_ to para No. \_\_\_\_\_ are true and correct to the best of my knowledge and rest to the best of my belief.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature/Thumb Impression  
of the Plaintiff/Attorney

BEFORE THE COURT OF \_\_\_\_\_

*Name of Court*

DISTRICT \_\_\_\_\_

*District Name*

Case No. \_\_\_\_\_ / \_\_\_\_\_

*Year*

vs.

*Petitioner(s)**Respondent(s)**Address**Address**Phone number (Cell/Landline)**Phone number (Cell/Landline) [if known]**Email**Email***APPLICATION UNDER SECTION 12(2) CPC****FOR SETTING ASIDE DECREE/JUDGMENT/ORDER DATED \_\_\_\_\_ PASSED****BY \_\_\_\_\_ HAVING BEEN OBTAINED****THROUGH FRAUD, MISREPRESENTATION & WITHOUT JURISDICTION***Complete details of the suit number, title, date of decree, name of the Court*

1. The petitioner(s) submit as under:-

2. That a suit for \_\_\_\_\_ in respect of property \_\_\_\_\_, was filed by \_\_\_\_\_ against \_\_\_\_\_ in the court of learned \_\_\_\_\_, which was decreed on \_\_\_\_\_ in favour of \_\_\_\_\_.

3. The petitioner being \_\_\_\_\_ has valuable rights in the said decretal property but he was not made party in the suit and was kept unaware, by the parties, of the entire proceedings of the suit.
4. That the parties to the suit intentionally concealed the actual facts from the learned Court and through misrepresentation and practicing fraud, obtained a decree from the Court;
5. The petitioner came to know about the fraudulently obtained decree on \_\_\_\_\_ and filed this application.
6. That the said decree is not sustainable in the eye of law and is liable to be set aside;
7. That the application is within time.
8. That this court has the jurisdiction to entertain the application.

**P R A Y E R**

In the light of above facts it is respectfully prayed that impugned decree may be set aside and the suit be restored by impleading the petitioner as party enabling him to pursue his rights.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature of Petitioner or his Counsel

**AFFIDAVIT**

I, \_\_\_\_\_ affirm on oath that the contents of this petition are correct to the best of my knowledge and belief.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature/Thumb Impression  
of the Petitioner /Attorney

**BEFORE THE LEARNED JUDICIAL MAGISTRATE****DISTRICT**

Post Arrest Bail Petition No. \_\_\_\_\_/20

\_\_\_\_\_ son/daughter of \_\_\_\_\_ resident of \_\_\_\_\_

\_\_\_\_\_ District \_\_\_\_\_.

....ACCUSED/PETITIONER(S)

VERSUS

1. The State .....

2. \_\_\_\_\_ son/daughter of \_\_\_\_\_ resident of \_\_\_\_\_  
\_\_\_\_\_ District \_\_\_\_\_. (Complainant)

.... RESPONDENTS

**FIR NO. \_\_\_\_\_, DATED \_\_\_\_\_, UNDER SECTION (S) \_\_\_\_\_**  
**OF THE \_\_\_\_\_, POLICE STATION \_\_\_\_\_,**  
**DISTRICT \_\_\_\_\_.****APPLICATION U/S 497 CR. P. C. FOR THE GRANT OF POST ARREST**  
**BAIL TO THE ACCUSED/ PETITIONER(S) IN THE ABOVE NOTED CASE TILL**  
**FINAL DISPOSAL OF THE INSTANT CASE.****RESPECTFULLY SHEWETH,**

- 1) That the accused / petitioners has/have been arrested in the above cited case. (Copy of FIR is attached).
- 2) That the accused / petitioners now approach (es) this honorable Court for his/her/their release on bail, inter alia, on the following grounds:

**GROUND:-**

- ☐ That the accused / petitioner(s) is/are innocent and has/have falsely been implicated in the instant case.
- ☐ That the allegations in the FIR are totally false and the the sections of law are not attracted to the facts and circumstance of the case.
- ☐ That the essential ingredients provided for applicability of the offence / charge are not attracted in the above noted case.
- ☐ That there is no direct or circumstantial evidence available on record which could connect the accused/petitioner(s) with the commission of the alleged offence.
- ☐ That the story of the prosecution is based on malafide just to harass and humiliate the accused / petitioner(s).
- ☐ That the investigation in the instant case is almost completed and the accused/petitioner(s) is/are no more required for further investigation and further detention of the accused/ petitioner(s) would not serve any purpose.
- ☐ That the accused /petitioner(s) is/are neither previous convict nor hardened, dangerous or desperate criminal(s).
- ☐ That the punishment provided for the offence(s) with which the accused/petitioner (s) is/are charged does not fall under the restrictive clause of section 497 CrPC.
- ☐ That the petitioner(s) seek(s) leave of this Honorable Court to raise other grounds at the time of arguments.
- ☐ That the accused/petitioner(s) is/are ready to furnish reliable sureties to the satisfaction of this Honorable Court, if released on bail.
- ☐ Any other ground \_\_\_\_\_

It is, therefore, most respectfully prayed that on acceptance of this Bail Application, the accused/ petitioner(s) may kindly be released on bail, till final disposal of the case.

Accused/ Petitioner(s)

Through:

(\_\_\_\_\_)

Advocate,

Dated: \_\_\_\_\_

**Certificate: -**

Certified that as per instruction of my client, no such like bail application has earlier been filed in the instant case by the accused/petitioner before any court.

**ADVOCATE**

**IN THE COURT OF SESSIONS JUDGE/ JUSTICE OF PEACE**

Applicant(s) \_\_\_\_\_ Vs \_\_\_\_\_

Respondent(s) \_\_\_\_\_

**Application under section 22-A CrPc. for**

- 1- ☐ Registration of a criminal case
- 2- ☐ Transfer of investigation from one police officer to another,
- 3- ☐ Neglect, failure or excess committed by police authority in relation to its functions and duties.

2- The applicant alleges the following facts,

When? \_\_\_\_\_

Where? \_\_\_\_\_

At what time? \_\_\_\_\_

By whom? \_\_\_\_\_

What for? \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

3- That the tentative assessment of the above facts / occurrence show that the respondent(s) have committed following acts /cognizable offences.

(a) \_\_\_\_\_

(b) \_\_\_\_\_

(c) \_\_\_\_\_

4- The Respondents(s) is/ are liable to be prosecuted; therefore directions are required to be given to the Police officer/ SHO for

- ☐ Registration of a case through FIR against the respondent(s)
- ☐ Transfer an investigation from police officer Mr. \_\_\_\_\_ to any other Police Officer/Mr. \_\_\_\_\_
- ☐ Taking action against the respondent(s) or a negligence / failure/ excess committed by accused person

**Complainant / Counsel.**



**Affidavit.**

That I, \_\_\_\_\_ son of \_\_\_\_\_ resident of \_\_\_\_\_, Tehsil \_\_\_\_\_ District \_\_\_\_\_ solemnly affirm and declare on oath that the contents of the above petition are true and correct to the best of my knowledge and belief and nothing has been concealed therein.

**Deponent**

## IN THE COURT OF SESSIONS JUDGE,

1 \_\_\_\_\_  
 2 \_\_\_\_\_  
 3 \_\_\_\_\_ **Petitioner (s)**

**Versus**

1. \_\_\_\_\_  
 2. \_\_\_\_\_  
 3. \_\_\_\_\_ **Respondent (s)**

**Petition U/S 491 Cr. PC for;**

1. ☐ The arrest was not shown in the daily diary of the police .
2. ☐ The police took the petitioner in custody without his involvement in any cognizable offence.
3. ☐ Custody of minor from ☐ father, ☐ mother ☐ adopted parents .
4. ☐ Illegal detention and maltreatment in law.
5. ☐ Sui Juris unmarried or married girl .
6. ☐ Detenue is in ☐ illegal confinement ☐ improper custody, of the respondents .

**Respectfully stated**

1. That the brief facts of the case in the petition are that

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

In these circumstances, it is respectfully prayed that the Petition u/s 491 CrPc for Habeas Corpus may kindly be allowed and necessary direction may be issued in the light of subject prayer, in the best interest of justice.

**Petitioner**

**AFFIDAVIT**

**That I,** \_\_\_\_\_ son of \_\_\_\_\_ resident of \_\_\_\_\_, Tehsil \_\_\_\_\_ District \_\_\_\_\_ solemnly affirm and declare that the contents of the above petition u/s 491 CrPc are true and correct to the best of my knowledge and belief and nothing has been concealed therein.

**Deponent**

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Case No. \_\_\_\_\_ / \_\_\_\_\_  
Year

*Petitioner*

*Address*

Phone number (Cell/Landline)

Email

**UNDER THE PROVISIONS OF W.P FAMILY COURT ACT**

- 
- Date of marriage/nikah*

---

5. From the wedlock of the parties, following children were born, namely

<i>Name of child</i>	<i>Sex</i>	<i>Age of child</i>

6. That the respondent has snatched the above mentioned child(ren) from the lawful custody of the petitioner and thus the welfare and wellbeing of the child demands that he/she/they be immediately returned to the custody of the petitioner;
7. It is prayed that by acceptance of this petition, the minor(s) may be retrieved from the custody of the respondent and be given into the custody of the petitioner.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature of Petitioner or his Counsel

### **V e r i f i c a t i o n**

I, \_\_\_\_\_ Solemnly affirm that  
(Name, parentage and address of the deponent)

the contents of this petition from para No. \_\_\_\_\_ to para No. \_\_\_\_\_ are true and correct to the best of my knowledge and rest to the best of my belief.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature/Thumb Impression  
of the Petitioner /Attorney

**BEFORE THE JUDGE FAMILY COURT  
DISTRICT \_\_\_\_\_**

*District Name*

Case No. \_\_\_\_\_ / \_\_\_\_\_  
*Year*

_____ <i>Plaintiff</i>	vs.	_____ <i>Defendant</i>
_____ <i>Address</i>		_____ <i>Address</i>
_____ <i>Phone number (Cell/Landline)</i>		_____ <i>Phone number (Cell/Landline) [if known]</i>
_____ <i>Email</i>		_____ <i>Email</i>

**SUIT FOR DISSOLUTION OF MARRIAGE, RECOVERY OF DOWER,  
MAINTENANCE ALLOWANCE, CUSTODY OF MINOR AND DOWRY ARTICLES**

1. The plaintiff submits as under:-
2. That the marriage of the plaintiff was solemnized with the defendant on \_\_\_\_\_  

*Date of marriage/nikah*

 in presence of witnesses, in consideration of dower  
 \_\_\_\_\_; *Details of dower*
3. That the dower is ☐ paid, or ☐ unpaid, or ☐ partially paid;
4. That the *nikah* was solemnized ☐ orally / ☐ in writing (Annex copy of *nikah-nama*)
5. That due to the following ground(s) plaintiff seeks dissolution of her marriage:-
  - i. ☐ That the whereabouts of the defendant have not been known for a period of four years;

- ii. ☐ That the defendant has neglected the plaintiff and has failed to provide for her maintenance for a period of two years;
- iii. ☐ That the defendant has taken an additional wife in contravention of the provisions of MFLO, 1961;
- iv. ☐ That the defendant has been sentenced to imprisonment for a period of seven years or upwards;
- v. ☐ That without any reasonable cause the defendant has failed to perform his marital obligations for a period of three years;
- vi. ☐ That the defendant was impotent at the time of marriage and continues to be so;
- vii. ☐ That the defendant has been insane for a period of two years or is suffering from ☐ leprosy, or ☐ a virulent venereal disease;
- viii. ☐ That the plaintiff was given in marriage by her ☐ father or ☐ guardian before she attained the age of sixteen years and that she repudiated the marriage before attaining the age of eighteen years, and the marriage has not been consummated;
- ix. ☐ That the defendant treats the plaintiff with cruelty in the following manner:-
  - a) ☐ He habitually assaults her.
  - b) ☐ He has made her life miserable by cruelty of conduct.
  - c) ☐ He associates with women of evil repute.
  - d) ☐ He leads an infamous life.
  - e) ☐ He attempts to force her to lead an immoral life.
  - f) ☐ He disposes of her property.
  - g) ☐ He prevents her from exercising her legal rights over her property.
  - h) ☐ He obstructs her in the observance of her religious profession or practice.
  - i) ☐ He has more wives than one and does not treat her equitably in accordance with the injunctions of Quran.

6. Plaintiff further states the following facts:-

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*State the facts that are necessary and plaintiff wants to bring in the notice of the Court*

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7. From the wedlock of the parties, following children were born, namely

<i>Name of child</i>	<i>Sex</i>	<i>Age of child</i>

8. The dower \_\_\_\_\_ of the plaintiff is wholly/partially  
*Specify the dower*  
 outstanding against the defendant and plaintiff is entitled for its recovery being consideration of the marriage;

9. The plaintiff is also entitled to the maintenance allowance at the rate \_\_\_\_\_ per  
*Specify the rate*  
 month since \_\_\_\_\_ as the plaintiff was expelled by the defendant from his  
*Specify the date from which unpaid*

house and defendant being husband is/was legally bound to provide maintenance allowance to the plaintiffs. Thus, in this respect a total \_\_\_\_\_ amount is  
*State the total outstanding amount*

outstanding against the defendant. The plaintiff is entitled for its recovery through the present suit;

10. The dowry articles, as per list attached, belonging to the plaintiff are lying in the house of defendant and plaintiff is entitled for recovery of all those articles or its value. *(Attach complete list with value of each item)*

11. That the respondent has also snatched child(ren) from the lawful custody of the petitioner and thus the welfare and well being of the child(ren) demands that he/she/they be immediately returned to the custody of the petitioner;



12. Plaintiff would like to add the following facts for proper resolution of the dispute,

*State the facts that are necessary and plaintiff wants to bring in the notice of the Court*

13. It is prayed that the plaintiff may be granted decree for dissolution of marriage, recovery of dower, maintenance allowance and dowry articles as per above mentioned facts. The minor(s) may also be retrieved from the custody of the respondent and be given into the custody of the petitioner.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature of Plaintiff or her Counsel

### V e r i f i c a t i o n

I, \_\_\_\_\_ Solemnly affirm that  
(Name, parentage and address of the deponent)

the contents of this suit from para No. \_\_\_\_\_ to para No. \_\_\_\_\_ are true and correct to the best of my knowledge and of para No. \_\_\_\_\_ to para No. \_\_\_\_\_ to the best of my belief.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature/Thumb Impression  
of the Plaintiff/Attorney

**BEFORE THE JUDGE FAMILY COURT**  
**DISTRICT \_\_\_\_\_**

*District Name*

Case No. \_\_\_\_\_ / \_\_\_\_\_  
*Year*

\_\_\_\_\_  
*Plaintiff*

vs.

\_\_\_\_\_  
*Defendant*

\_\_\_\_\_  
*Address*

\_\_\_\_\_  
*Address*

\_\_\_\_\_  
*Phone number (Cell/Landline)*

\_\_\_\_\_  
*Phone number (Cell/Landline) [if known]*

\_\_\_\_\_  
*Email*

\_\_\_\_\_  
*Email*

**SUIT FOR DISSOLUTION OF MARRIAGE, RECOVERY OF DOWER,  
MAINTENANCE ALLOWANCE AND DOWRY ARTICLES**

1. The plaintiff submits as under:-
2. That the marriage of the plaintiff was solemnized with the defendant on \_\_\_\_\_ in presence of witnesses, in consideration of  
*Date of marriage/nikah*  
dower \_\_\_\_\_;  
*Details of dower*
3. That the dower is ☐ paid, or ☐ unpaid, or ☐ partially paid;
4. That the *nikah* was solemnized ☐ orally / ☐ in writing (Annex copy of *nikah-nama*)
5. That due to the following ground(s) plaintiff seeks dissolution of her marriage:-
  - i. ☐ That the whereabouts of the defendant have not been known for a period of four years;
  - ii. ☐ That the defendant has neglected the plaintiff and has failed to provide

- for her maintenance for a period of two years;
- iii. ☐ That the defendant has taken an additional wife in contravention of the provisions of MFLO, 1961;
  - iv. ☐ That the defendant has been sentenced to imprisonment for a period of seven years or upwards;
  - v. ☐ That without any reasonable cause the defendant has failed to perform his marital obligations for a period of three years;
  - vi. ☐ That the defendant was impotent at the time of marriage and continues to be so;
  - vii. ☐ That the defendant has been insane for a period of two years or ☐ is suffering from ☐ leprosy, or ☐ a virulent venereal disease;
  - viii. ☐ That the plaintiff was given in marriage by her ☐ father or ☐ guardian before she attained the age of sixteen years and that she repudiated the marriage before attaining the age of eighteen years, and the marriage has not been consummated;
  - ix. ☐ That the defendant treats the plaintiff with cruelty in the following manner:-
    - a) ☐ He habitually assaults her .
    - b) ☐ He has made her life miserable by cruelty of conduct .
    - c) ☐ He associates with women of evil repute .
    - d) ☐ He leads an infamous life .
    - e) ☐ He attempts to force her to lead an immoral life .
    - f) ☐ He disposes of her property .
    - g) ☐ He prevents her from exercising her legal rights over her property .
    - h) ☐ He obstructs her in the observance of her religious profession or practice .
    - i) ☐ He has more wives than one and does not treat her equitably in accordance with the injunctions of Quran .

6. Plaintiff further states the following facts:-

---

*State the facts that are necessary and plaintiff wants to bring in the notice of the Court*

---



---

7. The dower \_\_\_\_\_ of the plaintiff is wholly/partially  
*Specify the dower*  
 outstanding against the defendant and plaintiff is entitled for its recovery being  
 consideration of the marriage;

8. The plaintiff is also entitled to the maintenance allowance at the rate  
 \_\_\_\_\_ per month since \_\_\_\_\_ as the plaintiff was  
*Specify the rate* *Specify the date from which unpaid*

expelled by the defendant from his house and the defendant being husband was legally bound  
 to provide maintenance allowance to the plaintiff. Thus, in this respect a total  
 \_\_\_\_\_ amount is outstanding against the defendant and  
*State the total outstanding amount*  
 the plaintiff is entitled for its recovery through the present suit;

9. The dowry articles, as per list attached, belonging to the plaintiff are lying in the  
 house of defendant and plaintiff is entitled for recovery of all those articles or its  
 value. *(Attach complete list with value of each item)*

10. Plaintiff would like to add the following facts for proper resolution of the dispute,  
 namely,

---

*State the facts that are necessary and plaintiff wants to bring in the notice of the Court*

---



---

11. It is prayed that the plaintiff may be granted decree for dissolution of marriage, recovery of dower, maintenance allowance and dowry articles as per above mentioned facts.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature of Plaintiff or her Counsel

**V e r i f i c a t i o n**

I, \_\_\_\_\_ Solemnly affirm that  
*(Name, parentage and address of the deponent)*

the contents of this suit from para No. \_\_\_\_\_ to para No. \_\_\_\_\_ are true and correct to the best of my knowledge and of para No. \_\_\_\_\_ to para No. \_\_\_\_\_ to the best of my belief.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature/Thumb Impression  
of the Plaintiff/Attorney

**BEFORE THE JUDGE FAMILY COURT  
DISTRICT \_\_\_\_\_**

*District Name*

Case No. \_\_\_\_\_ / \_\_\_\_\_  
*Year*

\_\_\_\_\_  
*Plaintiff*

vs.

\_\_\_\_\_  
*Defendant*

\_\_\_\_\_  
*Address*

\_\_\_\_\_  
*Address*

\_\_\_\_\_  
*Phone number (Cell/Landline)*

\_\_\_\_\_  
*Phone number (Cell/Landline) [if known]*

\_\_\_\_\_  
*Email*

\_\_\_\_\_  
*Email*

**SUIT FOR DISSOLUTION OF MARRIAGE  
UNDER SECTION 2 OF THE DISSOLUTION OF MUSLIM MARRIAGES ACT,  
1939**

1. The plaintiff submits as under:-
2. That the marriage of the plaintiff was solemnized with the defendant on \_\_\_\_\_ in presence of witnesses, in consideration  
*Date of marriage/nikah*  
of dower \_\_\_\_\_;  
*Details of dower*
3. That the dower is ☐ paid, or ☐ unpaid, or ☐ partially paid;
4. That the *nikah* was solemnized ☐ orally / ☐ in writing (Annex copy of *nikah-nama*)
5. That due to the following ground(s) plaintiff seeks dissolution of her marriage:-
  - i. ☐ That the whereabouts of the defendant have not been known for a period of four years;
  - ii. ☐ That the defendant has neglected the plaintiff and has failed to provide for her maintenance for a period of two years;

- iii. ☐ That the defendant has taken an additional wife in contravention of the provisions of MFLO, 1961;
- iv. ☐ That the defendant has been sentenced to imprisonment for a period of seven years or upwards;
- v. ☐ That without any reasonable cause the defendant has failed to perform his marital obligations for a period of three years;
- vi. ☐ That the defendant was impotent at the time of marriage and continues to be so;
- vii. ☐ That the defendant has been insane for a period of two years or ☐ is suffering from leprosy, or ☐ a virulent venereal disease;
- viii. ☐ That the plaintiff was given in marriage by her ☐ father or ☐ guardian before she attained the age of sixteen years and that she repudiated the marriage before attaining the age of eighteen years, and the marriage has not been consummated;
- ix. ☐ That the defendant treats the plaintiff with cruelty in the following manner:-
  - a) ☐ He habitually assaults her .
  - b) ☐ He has made her life miserable by cruelty of conduct .
  - c) ☐ He associates with women of evil repute .
  - d) ☐ He leads an infamous life .
  - e) ☐ He attempts to force her to lead an immoral life .
  - f) ☐ He disposes of her property .
  - g) ☐ He prevents her from exercising her legal rights over her property .
  - h) ☐ He obstructs her in the observance of her religious profession or practice .
  - i) ☐ He has more wives than one and does not treat her equitably in accordance with the injunctions of Quran .

6. Plaintiff further states the following facts:-

---

*State the facts that are necessary and plaintiff wants to bring in the notice of the Court*

7. It is prayed that the plaintiff may be granted decree for dissolution of marriage.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature of Plaintiff or her Counsel

**V e r i f i c a t i o n**

I, \_\_\_\_\_ Solemnly affirm that  
*(Name, parentage and address of the deponent)*

the contents of this suit from para No. \_\_\_\_\_ to para No. \_\_\_\_\_ are true and correct to the best of my knowledge and of para No. \_\_\_\_\_ to para No. \_\_\_\_\_ to the best of my belief.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature/Thumb Impression  
of the Plaintiff/Attorney



## BEFORE THE RENT CONTROLLER

DISTRICT \_\_\_\_\_

*District Name*Case No. \_\_\_\_\_ / \_\_\_\_\_  
*Year*

_____	vs.	_____
<i>Petitioner(s)</i>		<i>Respondent(s)</i>
_____		_____
<i>Address</i>		<i>Address</i>
_____		_____
<i>Phone number (Cell/Landline)</i>		<i>Phone number (Cell/Landline) [if known]</i>
_____		_____
<i>Email</i>		<i>Email</i>

## EVICTION PETITION FOR EVICTION OF RESPONDENT(S)

UNDER SECTION 13 OF THE WEST PAKISTAN URBAN RENT RESTRICTION  
ORDINANCE, 1959

1. The petitioner submits as under:-
2. That I am ☐ owner / ☐ landlord / ☐ attorney of the owner or landlord, of property \_\_\_\_\_ (building / rented land) bearing number \_\_\_\_\_  
*(complete details of property with survey/other number and identification)*
3. That Respondent(s) \_\_\_\_\_ is/are tenant(s) under the petitioner through ☐ written / ☐ oral lease agreement \_\_\_\_\_  
*(state the date and registration number etc)*
4. That the petitioner needs vacant possession of the stated property through eviction of the respondent(s) for the reason(s):

- a. ☐ Respondent has defaulted in paying the ☐ monthly / ☐ yearly rent of the property for \_\_\_\_\_  
(specify the period of default)
- b. ☐ Respondent has transferred his right or sublet the stated property without written consent of landlord.
- c. ☐ Respondent has used the stated property for a purpose other than that for which it was leased.
- d. ☐ Respondent has infringed any condition of the tenure .
- e. ☐ Respondent has committed such acts as are likely to impair materially the value or utility of the stated property  
\_\_\_\_\_  
(state the acts complained)
- f. ☐ Respondent's act or conduct has become nuisance for the occupants/ Neighbourhood.
- g. ☐ Respondent has ceased to occupy the building for continuous period of four months without reasonable cause.
- h. ☐ The stated property is required to the Landlord in good faith .

6. It is prayed that the respondent(s) may be directed to deliver vacant possession of the above mentioned property to the petitioner.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature of Petitioner or his Counsel

**V e r i f i c a t i o n**

I, \_\_\_\_\_ Solemnly affirm that

*(Name, parentage and address of the deponent)*

the contents of this Eviction Petition from para No. \_\_\_\_\_ to para No. \_\_\_\_\_ are true and correct to the best of my knowledge and of para No. \_\_\_\_\_ to para No. \_\_\_\_\_ to the best of my belief.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature/Thumb Impression  
of the Petitioner /Attorney

## BEFORE THE RENT CONTROLLER

DISTRICT \_\_\_\_\_

*District Name*Case No. \_\_\_\_\_ / \_\_\_\_\_  
*Year*

_____	vs.	_____
<i>Petitioner(s)</i>		<i>Respondent(s)</i>
_____		_____
<i>Address</i>		<i>Address</i>
_____		_____
<i>Phone number (Cell/Landline)</i>		<i>Phone number (Cell/Landline) [if known]</i>
_____		_____
<i>Email</i>		<i>Email</i>

**EVICITION PETITION FOR EVICTION OF RESPONDENT(S)**  
**UNDER SECTION 13-B OF THE WEST PAKISTAN URBAN RENT RESTRICTION**  
**ORDINANCE, 1959**

**(By the legal heirs of deceased landlord)**

1. Petitioner(s) respectfully submits as under:-

2. That \_\_\_\_\_  
*Name, father's name and address of the deceased landlord*  
 was landlord of the property (building / rented land) bearing number  
 \_\_\_\_\_  
*(complete details of property with survey/other number and identification)*

3. That the said landlord namely \_\_\_\_\_ has died on  
*Name of deceased landlord*  
 \_\_\_\_\_ and petitioner is the ☐ widow / ☐ minor ( ☐ son / ☐ daughter)  
*Date of death*  
 of the deceased landlord;

4. That the above mentioned property was rented to the respondent as tenant;
5. That said property is required to the petitioner for personal use;
6. That a notice in writing has been ☐ given / ☐ not given to the respondent/tenant to deliver vacant possession of the said property, but he has declined;
7. That petitioner needs vacant possession of the stated property through eviction of the respondent(s);
8. That this application is being filed within the stipulated time;
9. The subject property is situated within the jurisdiction of the Rent Controller
10. It is prayed that the respondent(s) may be directed to deliver vacant possession of the above mentioned property to the petitioner.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature of Petitioner or his Counsel

### **V e r i f i c a t i o n**

I, \_\_\_\_\_ Solemnly affirm that  
*(Name, parentage and address of the deponent)*

the contents of this Petition from para No. \_\_\_\_\_ to para No. \_\_\_\_\_ are true and correct to the best of my knowledge and of para No. \_\_\_\_\_ to para No. \_\_\_\_\_ to the best of my belief.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature/Thumb Impression  
of the Petitioner /Attorney

## BEFORE THE RENT CONTROLLER

DISTRICT \_\_\_\_\_

*District Name*

Case No. \_\_\_\_\_ / \_\_\_\_\_

*Year*

VS.

*Petitioner(s)**Respondent(s)**Address**Address**Phone number (Cell/Landline)**Phone number (Cell/Landline) [if known]**Email**Email*

## EVICITION PETITION FOR EVICTION OF RESPONDENT(S)

UNDER SECTION 13-B OF THE WEST PAKISTAN URBAN RENT RESTRICTION  
ORDINANCE, 1959**(By the landlord as salaried employee)**

1. Petitioner(s) respectfully submits as under:-
2. That petitioner is the landlord of the property (building / rented land) bearing number  
\_\_\_\_\_  
*(complete details of property with survey/other number and identification)*
3. That the above mentioned property was rented to the respondent as tenant;
4. That the petitioner ☐ was / ☐ is a salaried person and ☐ has retired / ☐ is due to retire;
5. That the above referred property is required to the petitioner for personal use;

6. That a prior notice in writing has been ☐ given / ☐ not given, to the respondent/tenant to deliver vacant possession of the said property, but he has declined;
7. That petitioner needs vacant possession of the stated property through eviction of the respondent(s);
8. That this application is being filed within the stipulated time;
9. The subject property is situated within the jurisdiction of the Rent Controller
10. It is prayed that the respondent(s) may be directed to deliver vacant possession of the above mentioned property to the petitioner.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature of Petitioner or his Counsel

### **V e r i f i c a t i o n**

I, \_\_\_\_\_ Solemnly affirm that

*(Name, parentage and address of the deponent)*

the contents of this Petition from para No. \_\_\_\_\_ to para No. \_\_\_\_\_ are true and correct to the best of my knowledge and of para No. \_\_\_\_\_ to para No. \_\_\_\_\_ to the best of my belief.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature/Thumb Impression  
of the Petitioner /Attorney

