

Special Marriage Rules, 1956

CONTENTS

1. Short title and commencement
2. Definition
3. Application of other Act and Rules
4. Registration of petitions
5. Contents of petitions
6. A petition for restitution of conjugal rights, shall, in addition to the particulars mentioned in Rule 5, state
7. A petition for judicial separation or divorce shall, in addition to the particulars mentioned in Rule 5, state
8. A petition for divorce by mutual consent shall, in addition to the particulars mentioned in Rule 5, state
9. xxx
10. xxx
11. Impleading of co-respondent
12. Intervenor
13. Damages
14. Limitation

Special Marriage Rules, 1956

No. 8266 (Nagpur, the 11th September, 1956). In exercise of the powers conferred by Section 41 of the Special Marriage Act 1954 (No. 43 of 1954) and all other powers hereunder to enabling the High Court of Judicature at Nagpur has made the following rules which are published for general information.

1. Short title and commencement :-

(a) These rules may be called the Special Marriage Rules, 1956. (b) They shall come into force from the date of their publication in the Madhya Pradesh Gazette.

2. Definition :-

In these rules unless there is anything repugnant in the subject or context-- "Act" means the Special Marriage Act, 1954 (No. XLII of 1954).

3. Application of other Act and Rules :-

The provisions of the Indian Divorce Act 1869, as regards forms and procedure, in so far as such forms and procedure may be

applicable mutatis mutandis and the rules made thereunder with necessary changes and adaptations and the general rules of Court relating to registration, contents and presentation or filing of plaints and written statements, in so far as they are not inconsistent with the Act or with these rules shall apply to all proceedings under the Act.

4. Registration of petitions :-

All original petitions under Chapter V, VI or VII of the Act shall be registered as suits of Class III in the register of Civil Suits.

5. Contents of petitions :-

A petition under Chapter V or Chapter VI of the Act shall,, in addition to any particulars required by law, state-- (i) the place and date of marriage; (ii) the name, status and domicile of the wife before the marriage; (iii) the status of the husband and his domicile at the time of the marriage and at the time, the petition is presented, and his occupation and the place or places of residence of the parties at the time of the institution of the suit; (iv) the principal permanent address where the parties have cohabited including the address where they last resided together; (v) where there is living issue of the marriage, and if so, the names and date of birth or ages of such issues; (vi) whether there have been any, and if so, what previous proceedings with reference to the marriage by or on behalf of either of the parties to the marriage, the place of such proceedings and result of such proceedings; (vii) the grounds on which the petitioner claims that the court to which the petition is presented has jurisdiction to entertain the petition.

6. A petition for restitution of conjugal rights, shall, in addition to the particulars mentioned in Rule 5, state :-

(i) the date from which the respondent has withdrawn from the society of the petitioner; (ii) the age of the respondent; (iii) the person or persons with whom the respondent is residing at the time of the institution of the suit; (iv) the attempts, if any, made before suit by the petitioner for resumption of normal relations.

7. A petition for judicial separation or divorce shall, in addition to the particulars mentioned in Rule 5, state :-

(i) the specified grounds on which judicial separation or divorce is claimed; (ii) the claim for damages, if any; (iii) the absence of collusion between the petitioner and the other party to the marriage.

8. A petition for divorce by mutual consent shall, in addition to the particulars mentioned in Rule 5, state :-

(i) the place or places and period or periods during which the parties have lived together; (ii) the period during which the parties have been living separately; (iii) the reasons for not being able to live together.

9. xxx :-

A petition for declaration of nullity of a marriage shall, in addition to the particulars mentioned in Rules 5 and 7, as far as applicable, state the facts which make the marriage null and void.

10. xxx :-

A petition for the annulment of a marriage shall, in addition to the particulars mentioned in Rules 5 and 7, as far as applicable, state the ground or grounds on which annulment of the marriage is sought.

11. Impleading of co-respondent :-

A petition for judicial separation or divorce on the grounds of adultery shall implead the alleged adulterer as a co-respondent, unless any of the following reasons is given for not so impleading--
(a) that the respondent is leading the life of a prostitute and that the petitioner knows of no person with whom the adultery has been committed; (b) that the name of the alleged adulterer is unknown to the petitioner, although he has made due efforts to discover it; (c) that the alleged adulterer is dead.

12. Intervenor :-

(a) Any person, not already a party to the proceedings may, by an application supported by an affidavit, seek the permission of the Court to intervene and show cause why a decree for divorce, declaration of nullity of marriage or annulment of marriage should not be passed. (b) If the Court allows such an application, the intervenor shall be made a party to the proceedings and shall, if the intervention is not bona fide, be liable for costs.

13. Damages :-

The Court may award to the petitioner such damages against a co-respondent who has been found guilty of adultery, as the court deems proper.

14. Limitation :-

The provisions of Section 5 of the Indian Limitation Act, 1908, shall apply to applications and appeals under the Act.

