

MINUTES OF THE JOINT MEETING OF THE RULE COMMITTEE CONSTITUTED UNDER SECTION 123 OF THE CODE OF CIVIL PROCEDURE, THE COMMITTEE IN CHARGE OF COMPUTERISATION, DESTRUCTION OF RECORDS AND CODIFICATION AND THE SUB COMMITTEE CONSTITUTED TO RESOLVE THE GRIEVANCE RAISED BY THE BAR IN RESPECT OF E- FILING IN THE HIGH COURT, HELD IN THE BANQUET HALL AT 09.15 A.M. ON SATURDAY, THE 4TH DAY OF DECEMBER, 2021

Present:-

**The Hon'ble Mr.Justice K. Vinod Chandran,
The Hon'ble Mr.Justice A.Muhamed Mustaque,
The Hon'ble Mr.Justice A.K.Jayasankaran Nambiar,
The Hon'ble Mr.Justice Shaji P. Chaly,
The Hon'ble Mr.Justice Raja Vijayaraghavan V., and
The Hon'ble Mr.Justice Sathish Ninan**

In attendance:

Sri.K.P.Sudhir, Registrar General, High Court of Kerala,
Sri.P.Krishna Kumar, Registrar (District Judiciary),
Smt.Honey M.Varghese, District and Sessions Judge, Ernakulam,
Sri.G.Unnikrishnan, Secretary, Rule Committee
Sri.K.P.Sreekumar, Member, Rule Committee
Sri.S.Vinod Bhat, Member, Rule Committee

DI-1/31887/2021 **ELECTRONIC FILING RULES FOR COURTS
(KERALA), 2021 – AMENDMENT OF - REG.**

After detailed deliberation, the meeting resolved to amend the Electronic Filing Rules for Courts (Kerala), 2021 taking into account the Technical report submitted by the Kerala High Court Advocates' Association dated 21.06.2021 and the report of the Sub Committee constituted to resolve the grievance raised by the Bar in respect of e-filing in the High Court. Proposed amendments are as follows:

(1) Amendment to Rule 2

The present Rule 2 to be renumbered as **Rule 2(1)**

(2) Amendment to clause (a) of Rule 2

In clause (a) of Rule 2 after the words “officers of the prosecuting agencies” the following words shall be inserted, namely: -

“who are competent to represent as an Advocate under Section 30 of the Advocates Act, 1961 (Act 25 of 1961).”

(3) Amendment to clause (f) of Rule 2

In clause (f) of Rule 2 after the words “Tribunals” the following words shall be inserted namely: -

“as mentioned in Rule 2(zd) of the Rules.”

(4) After clause (f) of Rule 2 the following new clause (ff) to be inserted namely: -

(ff) “Deemed institution” as contemplated in Rule 13(2A) means the initiation of electronic filing by the E-filer through the Electronic Filing System, but prevented from completing the process solely due to Technical Failure.”

(5) Amendment to clause (j) of Rule 2

In clause (j) of Rule 2 after the words “an Advocate or” the following words shall be inserted, namely: -

“a Partnership Firm or its Partners/Law Firm or its members”

(6) Amendment to clause (r) of Rule 2

The existing clause (r) of Rule 2 shall be deleted.

(7) After the existing Rule 2 to be renumbered as Rule 2(1) the following new sub-rule shall be inserted, namely: -

(2) All other words and expressions used and not defined in these Rules but defined in the Information Technology Act, 2000(Act 21 of 2000) shall have the meanings respectively assigned to them in the Act.

(8) Amendment to sub-rule (5) of Rule 3

In sub-rule (5) of Rule 3 after the words “size of the electronic file” the following words shall be inserted, namely: -

“as far as the Subordinate Courts and Tribunals are concerned”

(9) Amendment to sub-rule (7) of Rule 3

The existing sub-rule (7) shall be deleted and in its place the following sub-rule (7) shall be substituted: -

(7) A party-in-person who subsequently engages an Advocate or party/ies whose Advocate ceases to practice or relinquishes the engagement shall file an application before the Administrator for transferring the data in respect of the proceedings instituted, to the Advocate's user account or to the newly appointed Advocate or to the party/ies, as the case may be.

(10) Amendment to Rule 4

Amendment to sub-rule (1) of Rule 4

In sub-rule (1) the words “All Advocates and Party-in-Person” shall be deleted and in its place the following words shall be substituted, namely: -

“All Advocates or Party-in-Person or a Partnership Firm or its Partners/Law Firm or its members”

Amendment to sub-rule (9) of Rule 4

In sub-rule (9) of Rule 4 the following sentence starting from “Any inappropriate conduct on the part” and ending at “laws for the time being in force” shall be deleted and in its place the following sentence shall be substituted, namely: -

“If any willful negligence or illegal conduct attributable on the part of the E-filer comes to the notice of the Court, the Court, after conducting an enquiry and hearing the E-Filer, finds that the E-Filer is prima facie guilty, may initiate action against the E-Filer as contemplated by law.”

(11) Amendment to Rule 8

The existing Rule 8 with the rule heading shall be deleted and, in its place, the following new Rule 8 shall be inserted, namely: -

“8. Production of Documents

(1) Notwithstanding electronic filing of documents, all documents shall be produced in original unless the court otherwise directs or production of it in electronic form is permissible in accordance with the provision of law for the time being in force.

(2) Vakalaths, Affidavits or any such document required to be signed, executed, attested and/or authenticated by one or more parties shall be filed in electronic form signed and authenticated as per the provision under the Information Technology Act, 2000 (Act 21 of 2000)

(3) The responsibility for producing the originals of the documents shall be on the party or opposite party or party-in-person who has furnished the same in original or as scanned copies for instituting the action or filing objection.”

(12) Amendment to Rule 13

In Rule 13 after sub-rule (2) the following provisos shall be inserted, namely:

“Provided that if the E-Filer satisfies that there is deemed institution within the prescribed time prescribed as per sub-rule (2), the date of deemed institution shall be reckoned as the date of Electronic Filing for the purposes of this Rule.

Provided further that in case of technical failure, a notification regarding the exact time when the technical failure has occurred shall be notified on the website of the Court concerned immediately on the resolution of the technical problem and the notified time shall be considered for the purpose of deciding the time of deemed institution. If log in to the electronic filing web portal is not possible during technical failure, a screenshot displaying the screen of the E-Filer with date and time shall be taken and produced for the purpose of deciding deemed institution. If

the E-Filer could log in to the system but could not complete the filing of the action, then the log records of the E-Filer shall be considered for the purpose of deciding deemed institution.”

In Rule 13 after sub-rule (2) the following new sub-rule 2A shall be inserted, namely: -

(2A) In case of deemed institution, the E-Filer has to complete electronic filing or do conventional filing as provided under the Rules and for all purposes and intent, deemed institution shall be considered as a curable defect and to be cured within the time as prescribed by the Rules in this regard. The log records or the screen shot referred to in the second proviso to sub-rule 2, shall not be considered after the time prescribed for curing the defect

In Rule 13, the existing sub-rule (4) shall be deleted.

In Rule 13, the sub-rule (5) shall be deleted and in its place the following sub-rule shall be substituted, namely: -

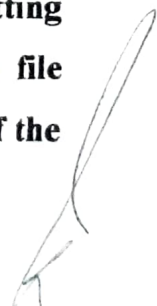
(5) In any circumstances, if filing becomes impossible through Electronic Filing facility in respect of cases which are required to be filed online, Registry can be permitted to entertain exclusive conventional filing before the expiry of period of limitation subject to the conditions regarding submitting e-filed copies within a period of 15 days.

In Rule 13, the existing sub-rule (6) shall be deleted

(13) After the existing Rule 16, the following new Rule 16 A shall be inserted, namely:-

16 A: General Powers of the Courts: -

These Rules shall not affect the powers of the Court from permitting Conventional Filing on grounds of total inability to electronically file through the Electronic Filing Web Portal or the designated counter of the Court.

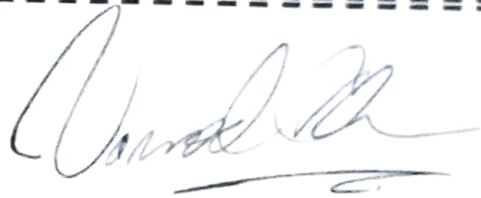


Further resolved that **Rule 10 of the Electronic Filing Rules for Courts (Kerala), 2021** be kept in abeyance by issuing an **Official Memorandum** by the High Court under Rule 16 of the **Rules**

The Electronic Filing Rules for Courts (Kerala), 2021, after incorporating the proposed amendments, is appended as Annexure-A to this minutes.

Let follow-up action be taken by the Registry.

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JUSTICE K. VINOD CHANDRAN



JUSTICE A. MUHAMED MUSTAQUE



JUSTICE A.K. JAYASANKARAN NAMBIAR



JUSTICE SHAJI P. CHALY



JUSTICE RAJA VIJAYARAGHAVAN V.



JUSTICE SATHISH NINAN

AMENDMENTS PROPOSED BY THE JOINT COMMITTEE

ELECTRONIC FILING RULES FOR COURTS (KERALA), 2021

1. Short Title, Commencement and Applicability:-

- (1) These Rules shall be called the Electronic Filing Rules for Courts (Kerala), 2021.
- (2) They shall come into force on the date notified by the High Court.
- (3) These Rules shall apply to the High Court and Subordinate Courts over which the High Court exercises supervisory jurisdiction.
- (4) These Rules shall also apply to Tribunals which shall be notified by the High Court from time to time.
- (5) These Rules shall apply to online Electronic Filing System, Designated Counters and facilities provided for Electronic Filing through Electronic Service Centres.
- (6) These Rules shall apply to such category of cases as are notified by the High Court in its website, or in such other manner, from time to time.

2. Definitions:-

[Present Rule 2 to be renumbered as Rule 2(1)]

- (1) In the construction of these rules the following terms (unless the context or subject-matter otherwise requires) shall have the respective meanings hereinafter assigned to them:
 - (a) "Advocate" means an advocate entered in any roll under the provisions of the Advocates Act, 1961 (Act 25 of 1961) and shall also include Government Pleaders and officers of the prosecuting agencies **who are competent to represent as an Advocate under Section 30 of the Advocates Act, 1961 (Act 25 of 1961).**
 - (b) "Action" includes all proceedings instituted in the Courts such as suits, criminal complaints, appeals, revision petitions, writ petitions, writ appeals, contempt petitions, execution petitions, arbitration proceedings, probate cases, caveats, bail applications and interlocutory applications.

(c) "Administrator" means the Registrar (Recruitment & Computerisation) or an officer authorized by the Chief Justice in respect of the High Court and an officer authorised by the District Judge for the Subordinate Courts and an officer authorised by the Statutory functionaries or authorities for administering and dealing with matters connected with or relating to electronic filing

(d) "Chief Justice" means the Chief Justice of the High Court of Kerala.

(e) "Conventional Filing" means the physical non-electronic presentation of any pleadings or documents to the Court.

(f) "Court" means collectively the High Court, Subordinate Courts and Tribunals **as mentioned in Rule 2(zd) of the Rules.**

(ff) **"Deemed institution" as contemplated in Rule 13(2A) means the initiation of electronic filing by the E-filer through the Electronic Filing System, but prevented from completing the process solely due to Technical Failure.**

(g) "Designated Counters" means those counters which find mention in the Electronic Filing Web Portal and those which may be provided in the website of the High Court or Subordinate Courts or Tribunals from time to time.

(h) "Digital Signature" means Digital Signature as defined in Section 2(1)(p) of the Information Technology Act, 2000 (Act 21 of 2000)

(i) "District Judge" means the Principal District and Sessions Judge of the District

(j) "Electronic Filer (E-Filer)" means an Advocate or a **Partnership Firm or its Partners/Law Firm or its members** or a Party-in-Person filing the pleadings or documents electronically through the Electronic Filing System and who has registered under Rule 4 of these Rules.

(k) "Electronic Filing (E-Filing)" means electronic filing in the prescribed manner through the Internet (at the Electronic Filing Web Portal of the Court) and through the Internet or Intranet at Designated Counters, unless the context otherwise requires

(l) "Electronic Filing Web Portal (E-Filing Web Portal)" means the website of the Court used for filing pleadings and documents online

(m) “Electronic Filing System (EFS)” means the system of software, database, network, hardware and service providers approved by the High Court to facilitate Electronic Filing Web Portal.

(n) “Electronic Payment [e-payment]” means all payments into court and out of court through electronic means.

(o) “Electronic Signature” means Electronic Signature as defined in Section 2 (1) (ta) of the Information Technology Act, 2000 (Act 21 of 2000).

(p) “Evidence” means and includes evidence as defined in Section 3 of the Indian Evidence Act, 1872 (Act 1 of 1872)

(q) “High Court” means High Court of Kerala.

(r) ~~“Objections” means deficiencies and errors pointed out by the Registry in relation to the pleadings or documents filed under these Rules.~~

[{r} to be deleted]

(s) “Opposite Party” means defendant, respondent, judgment debtor, counter petitioner, accused or any other person against whom an Action is initiated.

(t) “Optical Character Recognition (OCR)” means a technology that enables one to convert different types of documents, such as scanned paper documents, PDF files or images captured by a digital equipment into editable and searchable data.

(u) “Party” means plaintiff, petitioner, complainant, applicant, caveator, appellant, decree holder or any other person who initiates an Action.

(v) “Party-in-Person” means any Party or Opposite Party without availing the services of an Advocate.

(w) “Pleadings” for the purpose of these rules means and includes pleadings filed in support or defence of an Action including plaint, written statement, petitions, written objections, replies, counter-affidavits, counter statement and additional or supplementary affidavits.

(x) “PDF” means an electronic document filed in a Portable Document Format with Optical Character Recognition (OCR).

(y) “PDF/A” means an ISO standardized version of the Portable Document Format (PDF) specialized for the digital preservation of electronic documents.

(z) "Registry" means the Registry of the High Court or the Filing Officer of the Subordinate Courts and Tribunals.

(za) "Scanned Document" means an electronic document created in Portable Document Format (PDF)

(zb) "Technical Failure" means a failure of the court's hardware, software, network and or telecommunications facility which results in the impossibility of submitting a file electronically but does not include malfunctioning of the equipment of the person submitting an electronic file.

(zc) "Third Party" means and includes any person or persons or entity seeking to implead himself to become a party to the proceedings or to intervene in an Action.

(zd) "Tribunal" means the Tribunals which are notified by the High Court from time to time under sub rule (4) of Rule 1.

(ze) "Working Day" means and includes a day when the Registry of the Court is functioning under the calendar published or as directed by the Court.

(2) All other words and expressions used and not defined in these Rules but defined in the Information Technology Act, 2000(Act 21 of 2000) shall have the meanings respectively assigned to them in the Act.

3. General Instructions:-

(1) Online electronic filing shall be made in the High Court by visiting the web portal of the High Court or that is assigned specifically for electronic filing by the Chief Justice.

(2) Online electronic filing shall be made in the Subordinate Courts or Tribunals by visiting the web portal of the respective courts or that is assigned specifically for electronic filing by the High Court.

(3) Except as provided elsewhere in these Rules, all Actions whether in fresh, pending and disposed of cases, shall be filed electronically by the E-Filer in the manner provided in these Rules.

(4) Any person who is unable to access the Electronic Filing portal would be entitled to make use of the facilities provided at the Designated Counters on payment of charges, if stipulated.

(5) The size of the electronic file **as far as the Subordinate Courts and Tribunals are concerned** shall not exceed 100 MB. In case the electronic file size exceeds 100 MB, the E-Filer should visit any one of the Designated Counters for enabling Electronic Filing through the Intranet.

(6) A Party-in-Person who institutes or defends an Action shall submit an affidavit or an undertaking stating that he has not engaged an Advocate in the Action.

Existing sub-rule (7) to be deleted the new sub-rule (7) to be inserted

(7) A party-in-person who subsequently engages an Advocate or party/ies whose Advocate ceases to practice or relinquishes the engagement shall file an application before the Administrator for transferring the data in respect of the proceedings instituted, to the Advocate's user account or to the newly appointed Advocate or to the party/ies, as the case may be.

~~Once the data is transferred by the Administrator to the user account of the Advocate, the party-in-person/party/ies shall not be allowed to modify the data filed or file any pleadings in the same proceedings.~~ [to be deleted]

4. Registration and Responsibilities of E-Filer:-

(1) All Advocates or Party-in-Person or a Partnership Firm or its Partners/Law Firm or its members who have not registered on the Court Electronic Filing web portal shall register themselves in the Court Electronic Filing Web Portal. The procedure for registration will be published in the website of the Court.

(2) The Registry shall allot a user account, if the registration done under sub-rule (1) is in proper order.

(3) The E-Filer's username and password shall constitute the E-Filer's electronic identity and the user account for the purpose of these Rules.

(4) The E-Filer shall maintain a valid and working Electronic Mail (e-mail) address and mobile number to facilitate the receiving of Electronic Mail notifications or Short Messaging Service (SMS) from the Electronic Filing System. The Registry shall not be responsible if an E-Filer does not receive

notifications from the Electronic Filing System through his Electronic Mail or SMS.

(5) The E-Filer can also change his Electronic Mail address or mobile number or other information provided in his profile using the Electronic Filing Web Portal.

(6) The E-Filer shall be responsible for safeguarding his user ID and password and shall be liable for the conduct undertaken using his user ID and password. The E-Filer shall also ensure that his user ID and password is not shared with any other person.

(7) The E-Filer shall not use his user ID other than for filing the case in which he has been engaged or is interested in.

(8) The E-Filer shall take all reasonable steps to ensure that the pleadings and documents filed by him do not contain any malware or virus that might be harmful to the court's electronic filing system and to the other users of that system. The E-Filer if he has reasonable apprehension that his electronic identity has been compromised or a threat to the system exists, he shall immediately inform about the same to the Administrator.

(9) The Courts shall presume that the pleadings and documents filed by the E-filer have been filed by him using his user ID. ~~Any inappropriate conduct on the part of the E-Filer, which comes to the notice of the Court, shall result in the suspension of his account and strict action being initiated by the Court, against the E-Filer, under any of the laws for the time being in force. [to be deleted]~~

If any willful negligence or illegal conduct attributable on the part of the E-filer comes to the notice of the Court; the Court, after conducting an enquiry and hearing the E-Filer, finds that the E-Filer is prima facie guilty, may initiate action against the E-Filer as contemplated by law.

5. General Procedure: -

(1) Whenever an E-Filer intends to file a pleading the same shall be prepared electronically using any word processing software following the format as mentioned below.

(a) Paper Size: The pleadings shall be prepared on A-4 paper

(b) Font and Font Size: The font of the letters shall be Times New Roman and the typeface shall be 14 point.

(c) Line Spacing: All text shall be of 1.5 line spaced.

(d) Alignment: All the documents shall be aligned with justified alignment.

(e) Margins:

- Top Margin – 1.5”
- Bottom Margin – 1.5”
- Left Margin – 1.75”
- Right Margin – 1.0”

(2) A document that is to be typed in the local language of the Court shall be typed using UNICODE Font 12.

(3) All pleadings and documents filed in the High Court shall be in PDF or PDF/A format. The pleadings and the documents produced in support of the same shall be converted into Optical Character Recognition (OCR) searchable PDF or PDF/A document. The E-Filer in addition can also utilise the service of online web editor available in the Electronic Filing System.

(4) The Electronic Filing System in addition to the uploading of PDF or PDF/A document shall also have the provision for uploading Video or Audio files.

(5) Where the document is not a text document and has to be enclosed along with the pleadings, the document shall be scanned using an image resolution of 300 DPI (Dots Per Inch) in OCR searchable mode and saved as a PDF or PDF/A. The E-Filer shall ensure that the documents filed are an accurate representation of the document and is complete and readable. When the original of the document is not clearly legible, a typed copy of the document duly certified by the Advocate or Party-in-Person shall also be scanned and uploaded along with the original.

(6) When the documents produced along with the pleadings or subsequently produced is not the original of the document, then the Advocate or the Party-in-Person producing the document, shall endorse on the top of the first page of the document, that the document is not the original document and that it is only a certified copy or a photocopy of the original document.

(7) The pleadings filed should strictly conform to the requirements as prescribed in the relevant Acts and Rules.

(8) The text document and the scanned documents shall be uploaded in the website of the relevant courts in the manner and method as prescribed by the High Court from time to time. Any electronic filing not made in the manner and method as prescribed by the High Court shall be treated as a defective electronic filing.

(9) The procedure for converting a document into an OCR searchable PDF or PDF/A file will be set out in the website of the respective courts.

6. Digital Signature: -

(1) A document electronically filed using the Electronic Filing System shall bear the digital signature of the Advocate or the Party-in-Person. The digital signature shall be affixed on such places as are mandated under the relevant Acts and Rules.

(2) An Advocate or a Party-in-Person who does not possess the digital signature as issued by the competent authority, can authenticate electronically filed pleadings and documents by Electronic Signature [e-signature] based on Adhaar authentication using his Adhaar number and the OTP sent to the registered number of the Advocate or Party-in-Person. Such an authentication shall be considered as a valid identification for all intents and purposes.

(3) An Advocate or a Party-in-Person who does not possess a Digital Signature and Electronic Signature [e-signature] can authenticate electronically filed documents by electronic verification using his Electronic Mail Address (e-mail) or mobile phone number-based OTP authentication

(4) If the Advocate or the Party-in-Person is unable to authenticate as mentioned in sub-rules (1) to (3) then a printout of the pleadings or documents

shall be physically signed in accordance with the relevant Rules and thereafter it shall be scanned and uploaded.

(5) A list of the recognised Digital Signature providers and the procedure involved in appending single or multiple signatures will be available in the web portal of the court concerned.

7. Payment of Court Fees:-

(1) Court fees and other charges payable under the relevant Acts and Rules shall be made through Electronic Payment [e-payment] in the manner and mode as notified by the High Court from time to time and the notification shall also be available in the web portal of the relevant courts.

8. Retention of Original Documents: -

(1) The original of the document other than the pleadings that are scanned and digitally signed by the E-Filer at the time of E-Filing should be preserved for production as and when directed by the Court.

(2) In addition to the original documents referred to in sub-rule(1) the signed vakalath, notarised/attested affidavits and any original documents whose authenticity is disputed should be preserved at least for three years after the final disposal of the Action including appeals if any.

(3) The responsibility for producing the originals of the documents shall be on the person who has electronically filed the scanned copies thereof.

[the existing Rule 8 to be deleted and in its place new sub-rule 8 to be inserted]

8. Production of Documents

(1) **Notwithstanding electronic filing of documents, all documents shall be produced in original unless the court otherwise directs or production of it in electronic form is permissible in accordance with the provision of law for the time being in force.**

(2) Vakalaths, Affidavits or any such document required to be signed, executed, attested and/or authenticated by one or more parties shall be filed in electronic form signed and authenticated as per the provision under the Information Technology Act, 2000 (Act 21 of 2000)

(3) The responsibility for producing the originals of the documents shall be on the party or opposite party or party-in-person who has furnished the same in original or as scanned copies for instituting the Action or filing objection.

9. Access to Electronic Data of the Action:-

(1) The access to the pleadings and the documents filed electronically in an Action will be provided only to the Advocates for the parties or to the concerned Party-in-Person.

(2) The Advocate for the parties or the Party-in-Person shall be entitled to obtain certified copies of the pleadings and documents filed electronically, in accordance with the relevant rules for grant of certified copies.

(3) A stranger to the Action is entitled to obtain the certified copy of the pleadings and documents filed in the Action in accordance with the relevant rules.

10. Exemption from Electronic Filing:-

The court for reasons to be recorded in writing may on an application filed by an Advocate or Party-in-Person exempt him from online electronic filing of the entire pleadings or part of the pleadings and/or documents in any of the circumstances mentioned herein:

(i) where online electronic filing is for reasons stated in the application not feasible; or

(ii) where there are concerns about confidentiality and protection of privacy; or

(iii) where the document cannot be scanned or filed electronically because of its size, shape or condition, or

(iv) where the online electronic filing web portal is either inaccessible or not available for any reason; and/or

(v) where there are just and sufficient cause.

[High Court to issue an O.M. under Rule 16 of the Rules to keep in abeyance Rule 10 until further orders]

11. Service through Electronic Means:-

(1) The Court may serve the pleadings and documents that are electronically filed to the user account of the E-Filer through the designated electronic file system user account of the Registry or to his electronic mail account or through electronic post [e-post] or through any other electronic mode as prescribed by the Court. The same shall be in addition to the prescribed mode of service as per the relevant Acts and Rules.

(2) The Court may serve the notices, pleadings and documents that are electronically filed to the opposite party through the designated electronic file system user account of the Registry or to his electronic mail account, if any, or through electronic post [e-post] or through any other electronic mode as prescribed by the Court. The same shall be in addition to the prescribed mode of service as per the relevant Acts and Rules.

12. Proof of Electronic Filing:-

The proof of Electronic Filing of an Action shall be informed to the E-Filer on his registered electronic mail address, mobile phone number, E-Filer user account or through any other electronic mode as prescribed by the Court.

13. Computation of Limitation:-

(1) Wherever Limitation under the Limitation Act, 1963 (Act 36 of 1963) or under any other law for the time being in force applies to an Action, it shall be the responsibility of the E-Filer to electronically file the Action before the prescribed period of Limitation.

(2) The date of Electronic Filing for computation of the period of limitation shall be taken as the date when the Action is electronically received in the

Registry within the time [Indian Standard Time] prescribed under the relevant Act/Rules and orders issued from time to time.

Provided that if the E-Filer satisfies that there is deemed institution within the prescribed time prescribed as per sub-rule (2), the date of deemed institution shall be reckoned as the date of Electronic Filing for the purposes of this Rule.

Provided further that in case of technical failure, a notification regarding the exact time when the technical failure has occurred shall be notified on the website of the court concerned immediately on the resolution of the technical problem and the notified time shall be considered for the purpose of deciding the time of deemed institution. If log in to the electronic filing web portal is not possible during technical failure, a screenshot displaying the screen of the E-Filer with date and time shall be taken and produced for the purpose of deciding deemed institution. If the E-Filer could log in to the system but could not complete the filing of the action, then the log records of the E-Filer shall be considered for the purpose of deciding deemed institution.

(2A) In case of deemed institution, the E-Filer has to complete electronic filing or do conventional filing as provided under the Rules and for all purposes and intent, deemed institution shall be considered as a curable defect and to be cured within the time as prescribed by the Rules in this regard. The log records or the screen shot referred to in the second proviso to sub-rule 2, shall not be considered after the time prescribed for curing the defect.

(3) The facility for online Electronic Filing through the web portal shall be within the time prescribed under the relevant Act/Rules and orders issued from time to time.

~~**(4) When Electronic Filing is not possible on the Electronic Filing Web Portal of the Court due to any technical failure or system maintenance or other exigencies, then the Electronic Filer can Electronically File through the Designated Counters during the working hours of the Court**~~

[sub-rule (4) to be deleted]

~~(5) The E-Filer shall not be permitted to claim exemption from the period of limitation, on the ground that there was failure of the Electronic Filing facility.~~

[present sub-rule (5) to be deleted and new sub-rule (5) to be inserted.

(5) In any circumstances, if filing becomes impossible through Electronic Filing facility in respect of cases which are required to be filed online, Registry can be permitted to entertain exclusive conventional filing before the expiry of period of limitation subject to the conditions regarding submitting e-filed copies within a period of 15 days.

~~(6) These Rules shall not affect the powers of the Court from permitting Conventional Filing on grounds of total inability to electronically file through the Electronic Filing Web Portal or the Designated Counter of the Court.~~

[sub-rule (6) to be deleted and inserted as new Rule 16A]

14. Hard Copies of Pleadings and Documents Electronically Filed: -

(1) The Advocates and Party-in-Person can take hard copies of the pleadings and documents filed electronically for their use in the Court.

(2) The Registry of the Court shall take hard copies of the pleadings and documents meant for the use of the Court or for other official purposes.

15. Storage and Retrieval of Electronically filed Pleadings and Documents:-

(1) The Electronically filed pleadings and documents shall be stored on an exclusive server which shall be under the control and supervision of the Courts.

(2) The Registry shall separately label and encrypt each Action for facilitating their identification and retrieval.

(3) The security of the Actions shall be ensured by the Courts and access to them shall be in the manner provided in the Rules subject to changes decided by the Courts from time to time.

(4) The Courts shall take all necessary steps to ensure that a backup copy of all Actions is preserved in the manner as decided by the High Court from time to time.

16. Powers of High Court: -

(1) When the High Court is satisfied that the operation of any Rule causes undue hardship, it may order to dispense with or relax the requirements of that Rule to such extent and subject to such conditions, if any, as is necessary to deal with the case in a just and equitable manner.

(2) The High Court may also from time to time issue practice directions under these Rules and the said directions shall be effective from the dates as may be notified.

[New rule 16A]

16 A: General Powers of the Courts: -

These Rules shall not affect the powers of the Court from permitting Conventional Filing on grounds of total inability to electronically file through the Electronic Filing Web Portal or the designated counter of the Court.

17. Residuary Provision: -

(1) The Registry shall on scrutiny of the pleadings or documents filed, note the objections regarding the non-compliance with these Rules or Practice Directions or any other law for the time being in force.

(2) The Registry shall inform the E-Filer of the objections noted in his electronic mail address (e-mail) or through any other electronic mode.

(3) The objections noted by the Registry shall be cured by the E-Filer and the same shall be returned back to the Registry within the time provided.

(4) The pleadings or documents shall be posted before the Court only after the objections noted by the Registry are cured by the E-Filer.

(5) An E-Filer who has initiated an Action through Electronic Filing shall receive all copies of the pleadings or documents filed by the opposite party

through his electronic mail address or electronic filing system user account or through any other electronic mode.

(6) The person who faces an action, instead of receiving the pleadings or documents through his electronic mail address or through any other electronic mode, shall be entitled to make a written application to the concerned Registry to provide him with the hard copy of the pleadings or documents filed. The Registry, on being satisfied that sufficient reasons are made out in the written application, shall then direct the person who initiated the Action either to provide the hard copy of the pleadings or documents or to deposit the charges required for taking photocopy of the same.

(7) An E-Filer shall be entitled to assistance from the concerned Registry in case of any assistance required under these Rules.

(8) An E-Filer who has registered a caveat in a court shall receive all copies of the pleadings or documents filed by the opposite party to the caveat through his Electronic Mail Address or Electronic Filing system user account or through any other electronic mode.

(9) Procedural Matters with respect to which no express provision has been made in these Rules shall be decided by the Court consistent with the principle of furthering the interest of justice.

(10) These Rules shall be in addition to the Rules contained in the Criminal Rules of Practice, Kerala, Civil Rules of Practice, Kerala and the Rules of the High Court of Kerala, 1971.

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