

An introduction to the Lahore High Court Rules and Orders¹

1. **Available online:**
 - a. https://www.lhc.gov.pk/rules_and_orders
2. **High Court's rule-making power**
 - a. **1973 Constitution:**
 - i. Art. 202: "Subject to the Constitution and law, a High Court may make rules regulating the practice and procedure of the Court or of any court subordinate to it."
 - b. **Previous constitutions:**
 - i. 1972 Interim Constitution --- Art. 204
 - ii. 1962 Constitution --- Art. 101
 - iii. 1956 Constitution --- Art. 177 read with 3rd Schedule, Part II, Para. 5 (2)(b)
 - iv. Government of India Act, 1935 --- S. 224
 - c. **Letters Patent:**
 - i. S. 27 of the Letters Patent dated 21-03-1919 constituting the High Court of Judicature at Lahore for the Provinces of the Punjab and Delhi
 - d. **CPC, Part X:**
 - i. S. 122: "The High Courts may, from time to time after previous publication, make rules regulating their own procedure and the procedure of the Civil Courts subject to their superintendence, and may by such rules annul, alter or add to all or any of the rules in the First Schedule."
3. **Six volumes:**
 - a. **Volume I: Practice in the trial of civil suits**
 - i. Trial procedure
 - ii. Jurisdiction of courts
 - iii. Valuation of suits
 - iv. Arbitration proceedings
 - v. Local commissions
 - vi. Execution etc.
 - b. **Volume II: Special Jurisdiction and Accounts; for example**
 - i. Guardians and Wards
 - ii. Official receivers
 - iii. Succession certificates
 - iv. Civil Court Accounts
 - c. **Volume III: Practice in the trial of criminal cases**
 - i. Criminal trial procedure
 - ii. Remand
 - iii. Medico-legal work
 - iv. Sentencing
 - v. Execution of sentences
 - vi. Criminal appeals and revisions
 - vii. Transfer of criminal cases
 - viii. Judicial lock-ups
 - ix. Public prosecutors
 - x. Contempt of court etc.
 - d. **Volume IV: Superintendence and control of lower courts, including**
 - i. Inspection of subordinate courts

¹ Delivered on 27-05-2024 by Ch. Imran Hassan Ali, Advocate Supreme Court of Pakistan, BA (Pb.), LL.B. (Pb.), M.A. (Bristol), LL.M. (UCL), BVC (Nottingham), Barrister-at-Law (Lincoln's Inn), to members of the bar in the Auditorium, High Court Bar Association, Rawalpindi.

- ii. Process fees
- iii. Service of processes
- iv. Handwriting and fingerprint examiners
- v. *Malkhanas*
- vi. Oaths and affidavits
- vii. Prohibition of touting

e. **Volume V: Relating to proceedings in the High Court**

f. **Volume VI: Forms:**

- i. Succession certificates
- ii. Guardians and wards
- iii. Warrants
- iv. Refund of court fee
- v. Foreclosure of mortgage
- vi. Bonds
- vii. Opening forms
- viii. Various registers

4. **Mode of citation**

- a. Not structured like CPC
- b. Instead, each volume contains chapters. Each chapter comprises parts
- c. Start from volume and work your way down to the rule or sub rule.
- d. For example, to cite rule about constitutional remedies:
 - i. Volume V, Chapter 4, Part J, Rule _____

Recurring themes in litigation at Rawalpindi Bench

1. **Instructions for demarcation in boundary disputes:**
 - a. Vol. 1, Chapter 1, Part M, Sub-Part (i), Rule 4
 - b. Financial Commissioner's Instructions²
 - i. Use village field map
 - ii. **Establish three points**
 - iii. Compare the results with the field map
 - iv. Prepare a map on the basis of measurements
 - v. Submit the current field map with his report
 - vi. Explain to the parties what he was doing
 - vii. Record the statements **at the end**

2. **Failure to seek consequential relief:**³
 - a. Vol. 1, Chapter 1, Part M, Sub-Part (g)
 - b. In a suit for a declaration of title to immovable property, where the defendant denies that the plaintiff was in possession of the property on the date of the suit, the court should **first of all** decide this point. If the plaintiff is not found to be in possession of the property on the date of the suit his suit must fail unless the plaint is amended.

3. **Certain sections of Transfer of Property Act apply to municipal areas**
 - a. Some judgments passed in oblivion of the relevant notifications declared that TPA does not apply to Punjab⁴
 - b. In fact, as per Vol. 1, Chapter 1, Part N, Sub-Part III
 - i. Notification dated 30-12-1974: Sections 54, 59, 107, 118 and 123 applied to whole of Punjab
 - ii. Notification dated 22-11-1978: Above notification was superseded and now said sections apply to all municipalities⁵

4. **Pecuniary jurisdiction of Civil Judges**
 - a. High Court Rules and Orders, Volume 1, Chapter 21, Part A, Amendment dated 11-05-2016
 - i. Class I --- Unlimited
 - ii. Class II --- Rs. 50,00,000
 - iii. Class III --- Rs. 10,00,000

5. **Limitation in Intra Court Appeals:**
 - a. Vol. 5, Chapter 1, Part A (a), Rule 4
 - b. 20 days from date of judgment⁶
 - c. No need to attach copy of impugned judgment.
 - d. However, limitation is to be computed in accordance with the provisions of section 12 of the Limitation Act, 1908.
 - e. So, the time consumed in obtaining certified copies should be excluded if you choose to wait till then. ⁷

6. **Remedy against office objections:**
 - a. Volume V, Chapter 1, Part-A(a), Rule 9 (ii)
 - b. If the Deputy Registrar (Judicial) returns your case with objections, you may challenge that before the Chief Justice or the Administrative Judge

² Financial Commissioner was the predecessor of the Board of Revenue

³ Proviso to S. 42 of the Specific Relief Act lays down that a declaratory decree cannot be passed in a case in which other relief than mere declaration could be sought but has not been sought.

⁴ PLD 2014 Lahore 26 (*Khushi Muhammad and others vs. Muhammad Ashfaq and others*)

⁵ Also see: PLD 2019 SC 297 (*HRC No. 69229-P/2018 Regarding functioning of Patwaris, Kanungos and Tehsildars in urban area of Lahore*)

⁶ Art. 151 of the Schedule to the Limitation Act, 1908

⁷ Also see: 2019 CLD 578 Lahore [DB] (*Pakistan Mobile Communication Ltd. vs. Abrar Ahmed*), PLD 2013 Lahore 269 [DB] (*National Bank of Pakistan etc. vs. Khalid Javed Qureshi and others*), PLD 1974 SC 344 (*Ghulam Hussain Shah vs. Ghulam Muhammad*)

7. Certificate of counsel in review applications:

- a. Volume V, Chapter 1, Part-A(a), Rule 10
- b. Every application for review of a judgment or order of a Division Bench or of a Single Bench of the High Court presented by an Advocate shall be signed by him, and he shall certify that the grounds contained therein are good and sufficient grounds for review.
- c. Otherwise, he will not be heard.

8. Printing of paper books:

- a. Vol. 5, Chapter 2, Part A
 - i. Rule 1: F.A.O. → Not required
 - ii. Rule 2: R.F.A. → Shall be printed
 - iii. Rule 11, Note → Copies should be printed for juniors watching the case too.
- b. Vol. 5, Chapter 2, Part B
 - i. Rule 1: R.S.A. and Revision referred to Division Bench or a Full Bench → Shall be printed
 - ii. Not required if heard by a Single Bench
 - iii. Rule 5, Note → Copies should be printed for juniors watching the case too.
- c. I recently used this for re-admission of an appeal after 1 ½ years⁸

9. Left over cases:

- a. Volume 5, Chapter 3, Part A, Rule 5
- b. The daily cause list of the week shall be issued immediately on preceding Wednesday.
- c. "All left-over cases of the week shall be fixed on the corresponding day of the week following the next week, for instance, a case left over on Wednesday the 24th November, 1965 will be fixed for Wednesday the 8th December, 1965 ..."

10. Notice to outstation lawyers:

- a. Volume 5, Chapter 3, Part A, Rule 8:
- b. "In a case in which an Advocate not ordinarily resident in Lahore, Rawalpindi, Multan or Bahawalpur has to appear, the Deputy Registrar concerned shall fix the "actual date" sufficiently in advance and give to the said Advocate notice thereof by registered post card. Such date shall not be altered except by an order of the Bench concerned or of the first Division Motion Bench if the case is not listed before a particular Bench."

11. Numerical strength of benches:

- a. Volume 5, Chapter 3, Part B
- b. Single Bench:
 - i. All cases except the ones listed below
- c. Division Bench:
 - i. R.F.A. with jurisdictional value exceeding that of the District Court prescribed by the Civil Courts Ordinance, 1962 i.e. 5 Crore Rupees
 - ii. R.F.A. under Land Acquisition Act exceeding 5 Crore Rupees
 - iii. An appeal or reference in a case of death sentence
 - iv. A case in which notice for enhancement of sentence from life imprisonment to death sentence has been issued to the convict
 - v. An appeal against acquittal by the Provincial Government
 - vi. An appeal against acquittal by the complainant where special leave to appeal has been granted
 - vii. An appeal against acquittal of a charge punishable with death or life imprisonment
 - viii. Those cases in which the Chief Justice has specially ordered so

12. Powers delegated to Registrar

- a. Volume V, Chapter 3, Part C
- b. Power to dispose of all matters relating to service of notices, including substituted service
- c. Power to receive and dispose of an application to implead LRs
- d. Power to receive and dispose of an application for withdrawal of an appeal or consent decree or order

⁸ PLD 2023 Lahore 216 [DB] (*Munawar Hussain etc. vs. Government of Punjab etc.*)

13. Habeas corpus

- a. Volume 5, Chapter 4, Part F
 - i. Application to be made **on** an affidavit except where the person in detention himself sends a communication
 - ii. Rule nisi⁹ to be issued where a *prima facie* case made out calling upon the Respondent to appear and produce the person in detention
 - iii. A search warrant may also be issued
 - iv. Bailiff of the Court serves the writ and the warrant
 - v. Court may take evidence
- b. Volume 5, Chapter 4, Part J, Rule 1
 - i. Petitions under Art. 199 (1) (b) (i) shall be governed by the rules under Part F

14. Procedure for Writ Petitions

- a. Volume 5, Chapter 4, Part J

15. Questions of fact in writ petitions

- a. Volume 5, Chapter 4, Part J
- b. Rule 2: Writ Petitions to be accompanied by an affidavit or affidavits in proof of the facts
- c. Rule 6: Respondents in writ petitions should be required, when notices are issued, to file counter-affidavits
- d. Rule 7: ““All questions arising for determination of such petitions shall be decided ordinarily upon affidavits but the Court may direct that such questions as it may consider necessary be decided on such other evidence and in such manner as it may deem fit and in that case it may follow such procedure and may pass such order as may appear to it to be just.”
- e. **Some food for thought:**
 - i. Distinction between “question of fact” and “disputed question of fact”
 - ii. A fact becomes disputed only when the Respondent files a counter-affidavit¹⁰

16. Previous petitions along with outcome must be disclosed

- a. Volume 5, Chapter 4, Part J, Rule 2 (e)

17. Written statement in writ petitions

- a. Volume 5, Chapter 4, Part J, Rule 6: “Respondents in writ petitions should be required when notices are issued, to file written statements...”

18. Court fee on writ petitions

- a. Volume 5, Chapter 4, Part J, Rule 10 (i): “A court-fee of Rs. 500/- shall be payable **on each petition** but no court-fee shall be required in case a writ is required in respect of the detention of any person by or under orders of any **public authority**.”
- b. Two points
 - i. No court fee is payable on habeas petitions:
 1. Where person is in detention by or under orders of a public authority
 2. However, Court fee is payable on petitions against private persons
 - ii. “Each petition”
 1. Contrary views:
 - a. Only Rs. 500 fee should be payable regardless of the number of petitioners. [Unreported order dated 24-01-2017 passed by the Rawalpindi Bench in W.P. No. 1365/2015 titled “*Brig. (R) Dr. Allah Bakhsh Malik vs. Federation of Pakistan etc.*”]
 - b. Each petitioner has to pay separate court fee. [PLD 2007 Lahore 461 (*Zahoor Ahmed and others vs. Member (Consolidation) Board of Revenue, Punjab and others*)]¹¹

⁹ A rule or order upon condition that is to become absolute unless cause is shown to the contrary.

¹⁰ See: 1990 SCMR 1364 (*Sultan Muhammad etc. vs. Chairman, Federal Land Commission etc.*), PLD 2019 Lahore 285 (*Ms. Sadaf Munir Khan vs. Chairman Reconciliation Committee etc.*)

¹¹ More than 300 petitioners challenged a single order of BOR. They were each required to pay separate court fee.

19. Court fee on Intra Court Appeals:

- a. Volume 5, Chapter 4, Part J, Rule 10-A: "A court fee of Rs. 1000/- shall be payable **on each appeal** filed under the Law Reforms Ordinance, 1972, against an order passed in exercise of constitutional jurisdiction"

20. No need to file a sperate power of attorney in cross-appeals

- a. Volume I, Chapter 16, Part-A, Rule 3 --- Lower Courts
- b. Volume 5, Chapter 6, Part B, Rule 6 --- High Court
- c. "In cross-appeals, an Advocate who has already filed a power of attorney or memorandum of appearance for the appellant shall not be required to file another power of attorney or memorandum of appearance for his client as respondent in the cross-appeal."

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