



കേരള സർക്കാർ  
Government of Kerala  
2017



Regn. No. KERBIL/2012/45073  
dated 5-9-2012 with RNI

Reg. No. KL/TV(N)/634/2015-17

# കേരള ഗസറ്റ് KERALA GAZETTE

ആധികാരികമായി പ്രസിദ്ധപ്പെടുത്തുന്നത്  
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## PART III

# Judicial Department

### THE HIGH COURT OF KERALA

#### NOTIFICATION

No. D1-2570/2007. 4th July 2017.

In exercise of the powers conferred by Article 225 of the Constitution of India, Section 122 of the Code of Civil Procedure, 1908, and of all other powers hereunto enabling it in this behalf, the High Court of Kerala hereby publishes for general information the draft of the Kerala High Court (Admiralty) Rules, 2017.

Notice is hereby given that any objection or suggestion with respect to the draft rules received from any person within 30 days from the date of publication of this notification in the Gazette will be considered by the High Court. Objections or suggestions, if any, shall be addressed to the Registrar General, High Court of Kerala, Kochi-682 031.

### Draft Rules

1. *Short title and commencement*:—(1) These Rules may be called the Kerala High Court (Admiralty) Rules, 2017.

(2) They shall come into force on the date of their publication in the official Gazette.

2. *Definitions*:—In the construction of these rules, the following terms shall (if not inconsistent with the context or subject-matter) have the respective meanings hereinafter assigned to them:

(a) “The Court” means the High Court of Kerala.

(b) “Registrar General” means the Registrar General of the Court or any other officer who may be authorized to perform the duties of such Registrar General under the Rules, by the Chief Justice.

(c) “Registry” means the Office of the Court.

(d) “Property” includes Ship and Cargo.

(e) "Suit" means any suit, action or other proceedings instituted in the court in its Admiralty Jurisdiction.

(f) "Suit in Rem" means all Admiralty Action in Rem and shall also include all applications filed under Section 443 of the Merchant Shipping Act 1958 (Act 44 of 1958).

3. *Institution of Suit*:—(1) A suit shall be instituted by a plaint drawn up, subscribed and verified according to the provisions of the Code of Civil Procedure, 1908. In a suit in rem, the defendant/defendants may, subject to such variations as the circumstances may require, instead of by name, may be described as "the owners and parties interested" in the vessel or other properties proceeded against. The Admiralty Court shall have all the powers of a civil court in dealing with any application before it and to pass such interim and other orders as it may consider necessary.

(2) A suit shall be presented before the Registry either in person duly identified by an Advocate or through an Advocate.

(3) The suit shall be given the nomenclature "Adm. Suit" (Admiralty Suit).

4. *Warrant for arrest of property in suits in rem*:—In suits in rem, a warrant for the arrest of a property in Form No. 2 appended to these rules, may be issued at the instance either of the plaintiff or of the defendant at any time after the suit has been instituted, but no warrant of arrest shall be issued except after an affidavit by the party or his agent has been filed and the following provisions complied with.

(a) The affidavit shall state the name and description of the party at whose instance the warrant is to be issued, the nature of the claim or counter claim, that the claim or counter claim has not been satisfied and the name, nationality and nature of the property to be arrested.

(b) in a suit for wages or for possession or in respect of necessaries supplied, the affidavit shall state the nationality of the vessel proceeded against; and if against a foreign vessel, that notice of the institution of the suit has been sent by registered post to the nearest Consul or Diplomatic representative in India of the country to which the vessel belongs and a copy of the notice shall be annexed to the affidavit.

(c) In a suit of bottomry, the bottomry bond, and if in a foreign language, a notarial translation thereof, shall be produced for inspection and perusal of the Registry and a copy of the bond or of the notarial translation thereof, certified to be correct shall be annexed to the affidavit.

(d) In a suit of distribution of salvage, the affidavit shall state the amount of salvage money awarded or agreed to be accepted and the name, address and description of the party holding the same.

5. *Dispensing with particulars in certain cases*:—The Court may in its discretion allow the warrant to issue, although the affidavit mentioned in Rule 4 may not contain all the required particulars and the Court may also waive, in a suit for wages the requirement as to service of the notice and in a suit of bottomry the production of the bond.

6. *Suit in rem when service not required*:—(1) In suits in rem, no service of summons or warrant of arrest shall be required when the defendant or his Advocate waives service and undertakes in writing to appear and to give security or to pay money into court in lieu of security.

(2) When the defendant or his Advocate fails to enter appearance or give security or pay money into court in lieu of security pursuant to the written undertaking aforesaid, it shall render the property liable to arrest.

7. *Service by whom made*:—In a suit in rem, the summons or warrant of arrest or process shall be served by the process server of the Court. Every warrant/summons/process shall be returned to the Registry within seven days from the date of service.

8. *Service on ship how effected*:—In suits in rem, service of summons or warrant against ship, freight or cargo on board, shall be effected by affixing the original of summons or warrant for a short time on the main mast or on the single mast of the vessel or on any conspicuous part of the vessel and leaving a duplicate thereof affixed in its place when removing the original summons/warrant. In addition to the above, service may also be effected on the Agent of the vessel at the concerned port, personally or through facsimile transmission. The summons/warrant shall be in Form No.1 appended to these Rules.

9. *Service on cargo how effected:*—(1) If the cargo has been landed or transshipped, service of summons or warrant of arrest of the cargo, shall be effected by placing the original of the summons or warrant for a short time on the cargo and leaving a duplicate thereof affixed in its place when removing the original summons/warrant. The summons/warrant shall be in Form No.1 appended to these Rules.

(2) If the cargo is in the custody of a person who will not permit access to it, service of summons or warrant shall be made upon the person in custody thereof.

10. *Registrar General to apply for directions:*—The Process Server shall make a report to the Registrar General and on his report the Registrar General shall file an application to the Court and apply for directions with respect to the property under arrest in the suit. The Court may direct notice of the application to be given to any person concerned with the property before passing any order on the application filed by the Registrar General.

11. *Intervener:*—(1) Where property involved in a suit in rem, is brought under arrest, or, money representing the proceeds of sale of that property is in court, a person who has interest in that property or money, but who is not a defendant in the suit may, with the leave of the Court, intervene in the suit.

(2) An application for grant of leave under this rule shall be supported by an affidavit, showing the interest of the applicant in the property against which the suit is brought or in the money in the Court, and shall be presented either in person or through an Advocate. On allowing the application, the intervener shall be treated as if he were a defendant in the suit.

(3) The Court shall order the person to whom it grants leave to intervene in a suit, to serve such pleadings as may be specified in the order, on all the parties to the suit within a specified period.

12. *Hearing Ex parte:*— After the expiration of fourteen days from the service of summons or warrant, if there is no appearance in the suit, the court may proceed with the suit *ex parte*.

13. *Application for sale of arrested property:*— In a suit in rem, if the property proceeded against has been arrested, the plaintiff may at any time after the service of summons on the defendant or after the defendant enters appearance, apply to the Court for an order that the arrested property be sold, and, the Court may if satisfied that the claim of the plaintiff is well founded, order the property to be sold and the sale proceeds be paid into the Registry.

14. *Order for sale of property and determination of priority of claims:*—(1) Where in a suit in rem, the Court has ordered the property proceeded to be sold, any party who has obtained or obtains a decree or order against the said property or the proceeds of sale thereof may, subject to sub rule (2), apply to the Court for determination of the order of priority of the claims against the proceeds of sale of the said property.

(2) Where in a suit in rem, the Court orders the property proceeded against to be sold, it may further order.

(a) that the order of priority of the claims against the proceeds of sale of the property shall not be determined until the expiration of sixty days or of such period as the Court may specify, beginning with the day on which the proceeds of sale are paid into Court;

(b) that any party to the suit or to any other suit in rem against the property proceeded against or the sale proceeds, may apply to the Court to extend the period specified in the order;

(c) that within seven days after the date of payment into Court of the proceeds of sale, the Registry shall cause a publication in such newspapers as the Court may direct, a notice complying with the provisions of sub rule (3).

(3) The notice referred to in sub-rule (2) shall state—

(a) that the property (particulars to be specified) has been sold by the order of the Court in a suit in rem giving the number of the suit and the names of the parties to the suit and that the gross proceeds of the sale specifying the amount thereof, have been paid into Court;

(b) that the order of priority of the claims against the said proceeds will not be determined until the expiration of the period specified in the order for sale;

(c) that any person having a claim against the property or the proceeds of sale, shall apply to the Court before the expiration of that period for leave to intervene and prove his claim for a decree.

(4) The expenses incurred for the publication shall be included in the expenses relating to the sale of the property.

(5) Any application to extend the period referred to in clause (a) of sub rule (2) shall be served on all parties to the suit.

(6) Subject to the aforesaid provisions, every sale under the decree or order of the Court shall, unless otherwise the Court orders, be made by the Registry of the court in the same manner as a sale of movable property in execution of decree as in a civil suit.

15. *Caveat against arrest of property*:—(1) Any person desiring to prevent the arrest of any property shall file in the Registry a Caveat Application signed by himself or by his authorized agent requesting that a Caveat be entered against the arrest of the said property and undertaking to enter an appearance in any suit that may be instituted against the said property and to give security in a sum not exceeding an amount stated in the Caveat or pay the said sum into the Registry.

(2) Any person instituting a suit against any property in respect of which a caveat has been entered, shall before filing the suit, serve a copy of the plaint including all the documents to be filed, upon the Caveator or upon his authorized agent and annex to the plaint a statement of such service.

(3) Within four days from the filing of the plaint, the Caveator shall give security for the amount in which the suit has been instituted or pay the amount into the Registry.

(4) Before issuing a warrant for the arrest of the property, the Registry shall ascertain whether or not any Caveat has been entered against the issue of a warrant for arrest.

16. *Suit to proceed exparte if no security is furnished or sum paid*:— After the expiration of four days from the filing of the suit, if the Caveator does not give security or pay the amount into the Registry as contemplated under sub rule (3) of Rule 15, the plaintiff may apply for hearing the suit exparte.

Provided that, the Court may on good and sufficient cause shown, extend the time for giving security or payment of the amount into the Registry, for a further period not exceeding 15 days, on payment of such costs as the Court may impose.

17. *Judgment of the claim and enforcement of payment*:—When the suit comes before the Court, if the Court is satisfied that the claim is well founded, it may pronounce judgment for the amount which appears to be due and may enforce the payment thereof by attachment against the Caveator and by arrest of the property if it is, or, thereafter comes within, the jurisdiction of the Court.

18. *Caveat against release of arrested property*:—(1) Any person desiring to prevent the release of any property under arrest, shall file in the Registry a Caveat Application signed by himself or his Advocate requesting that a Caveat be entered against the release of the arrested property.

(2) No property arrested under a warrant shall be released unless notice is given to the person who has filed the Caveat against the release.

(3) A party delaying the release of any property by the entry of a Caveat shall be liable to be condemned in costs and damages unless he shows to the satisfaction of the Court, good and sufficient reasons for having entered a Caveat.

19. *Caveat against payment out of sale proceeds of property*:—Any person desiring to prevent the payment out of court of any money in court received from the proceeds of sale of any property shall file in the Registry a Caveat Application signed by himself or his Advocate requesting that a Caveat be entered against payment out of sale proceeds of property.

20. *Nomenclature of the Caveat*:— All Caveats, filed under rule 15, rule 18 and rule 19 shall be numbered by the Registry and thereupon be entered in the register of caveats. The nomenclature of the Caveat shall be “Caveat Petition (Adm. Suits)”.

21. *Property may be arrested notwithstanding a Caveat*:—Notwithstanding the fact that there is a Caveat in force against arrest, the Court may for sufficient reasons, issue a warrant of arrest and get the property to which the Caveat relates, arrested.

22. *Remedy where property protected by Caveat is arrested without good and sufficient cause*:—Where property with respect to which a Caveat against arrest is in force, is arrested in pursuance of a warrant of arrest, the party at whose instance the Caveat was entered may apply to the Court for an order for the release of the property. The Court may, if it is satisfied that the party procuring the arrest of the property did not have sufficient reasons for doing so, order the release of the property and may also order the party procuring the arrest of the property to pay damages in respect of the loss suffered by the Caveator as a result of the arrest.

23. *Duration of Caveat*:—(1) A Caveat registered under Rule 15, Rule 18 and Rule 19 shall remain in force for a period of six months from the date thereof.

(2) The period of a Caveat registered shall not be extended. But it shall not prevent the person entering the Caveat from filing fresh Caveats.

24. *Withdrawal of Caveat*:—A Caveat filed may be withdrawn by the party or by his authorized agent, with the permission of the Registrar General, on an application to be filed signed by the party or by his authorized agent who had signed the Caveat.

25. *Application to overrule a Caveat*:—In appropriate cases, a Caveat may be overruled on an application made to the Court supported by an affidavit.

26. *Release of arrested property*:—(1) Subject to the provisions of sub rule (2) of Rule 18, property arrested under a warrant may be ordered to be released—

(a) at the request of the plaintiff filing an application, before the appearance of the defendant; or

(b) on the defendant paying into Court the amount claimed in the suit; or

(c) on the defendant giving such security for the amount claimed in the suit as the Court may direct; or

(d) on any other ground that the Court may deem just.

(2) Property arrested under a warrant shall be released only under the authority of an instrument issued by the Registrar General, to be called a “Release Order”. The Release Order shall be in Form No. 3 appended to these Rules.

(3) The Release Order shall be issued by the Registrar General as per the orders of the Court.

27. *Money to be paid into and out of Court*:—(1) All money to be paid into Court shall be paid in the name of the Registrar General of the Court.

(2) All money to be paid out of Court shall not be paid except with the prior permission of the Registrar General.

28. *Code of Civil Procedure, 1908 to apply*:—The provisions of the Code of Civil Procedure, 1908 (Central Act 5 of 1908) to the extent they are not repugnant to these Rules, shall govern the proceedings in an Admiralty Suit.

29. *Court Fee Payable*:—The court fee payable in respect of suits filed under these Rules shall be the same as provided for in the Kerala Court Fees and Suits Valuation Act 1959, (Act 10 of 1960) for similar reliefs.

30. *Schedule of Fees for effecting process under the Rules*:—The fees payable for serving and executing process issued by the Court shall be in accordance with the Table of Fees appended to these Rules. In all other cases, the fees shall be in accordance with the Rules issued by the High Court under the Kerala Court Fees and Suits Valuation Act, 1959 (Act 10 of 1960).

31. *Registers to be maintained*:—The Registry shall maintain the following registers for Admiralty Suits.

- (i) Register of Suits (Admiralty)
- (ii) Register of Caveats (Admiralty)
- (iii) Common Register (Admiralty)
- (iv) Register of Receipts and Payments (Admiralty)
- (v) Register of Release Orders (Admiralty)
- (vi) Disposal Register (Admiralty)
- (vii) Execution Register (Admiralty)

32. *Application*:—In matters not provided for by these Rules, the Rules of the High Court of Kerala, 1971, will apply.

#### TABLE OF FEES FOR PROCESS CHARGES

1. For serving of summons on ship, freight or cargo	—    ` 250
2. For serving of warrant of arrest on ship or cargo	—    ` 250
3. For serving of any other notices and other judicial proceedings not specified in the schedule, for each person to be served	—    ` 150

By order,

Kochi-682 031.

ASHOK MENON,  
Registrar General.

**Appendix-I**

FORM No. 2

FORM No. 1

WARRANT OF ARREST IN ADMIRALTY IN REM

SUMMONS IN ADMIRALTY SUITS IN REM

(See Rule 4)

(See Rules 8 and 9)

Adm. Suit No. of 20

Adm. Suit No. of 20

**In the High Court of Kerala at Ernakulam**

(Admiralty Jurisdiction)

**In the High Court of Kerala at Ernakulam**

(Admiralty Jurisdiction)

Plaintiff

Defendant

..... Plaintiff  
..... Defendant

You are hereby informed by the order of Court that the Vessel of the Port of .....and the cargo and freight etc. are under arrest until further orders from the Court.

Place:

Date:

To the owners and parties interested in the Vessel .....of the ..... Port of (or cargo and freight etc. as the case may be)

Whereas.....has instituted the above suit in this Court against you and you are hereby required to cause an appearance to be entered in the Registry within seven days from the service upon you of this summons, either in person or through an Advocate to answer the plaintiff's claim on the day the case is set down for hearing, and you are required by the Court to file a written statement within 30 days from the date of service of this summons and you are hereby required to take note that in case of default in your appearing, the suit will be liable to be heard and determined in your absence.

Place:

Date:

By orders of the Court,

*Registrar General.*

By orders of the Court,

*Registrar General.*

FORM No. 3

RELEASE ORDER

[See Rule 26(2)]

Whereas the counsel for the plaintiff/defendant has produced by way of security before the Registrar General of this Court an amount of .....as per the order dated.....in.....for the release of .....which was ordered to be arrested.

It is hereby certified that the ..... is released from the arrest ordered by the High Court of Kerala in the above mentioned order. The vessel.....is permitted to sail out of the port.

Dated this the.....day of .....20

*Registrar General.*

**Appendix II**

## REGISTER OF SUITS (ADMIRALTY)

[See Rule 31 (i)]

Admiralty Suit  of  Filed on

<i>Particulars of claim</i>	<i>Parties to the suit</i>	<i>Service of summons</i>	<i>Court fee paid</i>	<i>Petitions filed</i>	<i>Petitions date of first order</i>	<i>Petitions date of last order</i>	<i>Proceedings in court till disposal (date of orders with description)</i>	<i>Posting details</i>	<i>Exhibits marked</i>	<i>Appeal if any</i>	<i>Date of disposal of appeal</i>
	Plaintiffs  By Advocates										
	Defendants  By Advocates										

## REGISTER OF CAVEATS (ADMIRALTY)

[See Rule 31 (ii)]

<i>Sl. No.</i>	<i>Date of filing</i>	<i>Caveat No.</i>	<i>Name of Caveator and Counsel</i>	<i>Details of Vessel with IMO Code and Nationality</i>	<i>Expected applicant if any/other party</i>	<i>Caveat Valid upto</i>

## COMMON REGISTER (ADMIRALTY)

[See Rule 31 (iii)]

(PETITIONS/PROCESS/MEMO/VAKALATH)

<i>Sl. No.</i>	<i>Court Fee No.</i>	<i>Case Number</i>	<i>Petitions/Process/ Vakalath/Memo</i>	<i>Name of Counsel for Plaintiff/Petitioner</i>	<i>Name of Counsel for Defendant/ Respondent</i>	<i>Remarks</i>

## REGISTER OF RECEIPTS AND PAYMENTS (ADMIRALTY)

[See Rule 31 (iv)]

<i>Sl. No.</i>	<i>Case No.</i>	<i>Date</i>	<i>Details of Receipts</i>	<i>Details of Payments</i>	<i>Details of Orders of Registrar General</i>	<i>Signature of Payee</i>	<i>Security furnished and its Details if any</i>	<i>Remarks</i>



## REGISTER OF RELEASE ORDERS (ADMIRALTY)

[See Rule 31 (v)]

<i>Sl. No.</i>	<i>Case No.</i>	<i>Nature of Property</i>	<i>Date of Arrest</i>	<i>Details of Party making Payment/ Security</i>	<i>Details of Payment/ Security</i>	<i>Details of Release Order</i>	<i>Signature of Registrar General</i>

## DISPOSAL REGISTER (ADMIRALTY)

[See Rule 31 (vi)]

<i>Sl. No.</i>	<i>Case No.</i>	<i>Nature of Disposal</i>	<i>Name of Judge</i>	<i>Date of Disposal</i>	<i>Date of Receipt in Section</i>	<i>Date of Transmission to Decree Section</i>

## EXECUTION REGISTER (ADMIRALTY)

[See Rule 31 (vii)]

<i>No. of Execution Petition</i>	<i>Name of Council</i>	<i>Arising from ADS</i>	<i>Service of Notice</i>	<i>Interim Orders</i>	<i>Remarks</i>
	Petitioner/  Respondent				

**Explanatory Note**

(This does not form part of the notification, but is intended to indicate its general purport).

The High Court of Kerala has not framed any rules so far for regulating the proceedings arising under its admiralty jurisdiction. The High Court of Kerala, in a decision reported in 2011 (1) KHC 628, has held that the proceedings filed before the High Court under its admiralty jurisdiction shall be governed by the procedure prescribed under the Code of Civil Procedure and the Admiralty Rules framed by the Madras High Court, until rules are framed by this Court on the subject. On considering the matter, the High Court felt that specific rules need to be framed on the subject so as to facilitate the proceedings in the High Court under the admiralty jurisdiction. The notification is issued to achieve the above Object.