

GOVERNMENT OF ASSAM
JUDICIAL DEPARTMENT :: JUDICIAL BRANCH
DISPUR, GUWAHATI-6.

ORDERS BY THE GOVERNOR

NOTIFICATION

Dated Dispur the 15th June, 2015

No. JDJ.503/2013/14: Under clause 138 of the Assam Law Department Manual, the G.Ps shall be remunerated by fees according to the High Court's Civil Rules and Orders. Now, consequent upon amendment of CHAPTER-29 of the Civil Court Rules and Order by the Gauhati High Court vide Notification No. HC.XI-01/2003/337/RC(Pt.), dtd. 05.09.2013, the Governor of Assam is pleased to enhance the rate of fee in terms of the aforesaid Notification, relevant clauses whereof are reproduced below:

'586' For the purpose of computation of the fees of legal practitioners for inclusion as costs to be included in the decree passed by the Civil Court, the following rules are laid down and the following rate of fees are prescribed, which will be subject to the discretion of the Court to direct to pay a specific sum as may be specifically mentioned in the decree or order, for reasons to be recorded in consideration of the value and circumstances of the case:

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| 1. In all types of title suit, with or without any consequential relief irrespective of valuation | Rs. 10,000/- |
| 2. In suit for breach of any contract or for damages | Rs. 10,000/- |
| 3. In all suits for injunction | Rs. 5,000/- |
| 4. In rent suits | Rs. 5,000/- |
| 5. In money suits, if the amount or value of the suit: | |
| i) Is up to Rs. 10,000/- | Rs. 2,000/- |
| ii) Exceeds Rs. 10,000/- but does not exceed Rs. 50,000/- | Rs. 2,000/- plus 7½% of the amount exceeding Rs. 10,000/- |
| iii) Exceeds Rs. 50,000/- but does not exceed Rs. 1,00,000/- | Rs. 5,000/- plus 4% of the amount excess Rs. 50,000/- |
| iv) Exceeds Rs. 1,00,000/- but does not exceed Rs. 10,000,000/- | Rs. 7,000/- plus 3% of the amount exceeding Rs. 1,00,000/-, provided that in no case the fee under Clause (iv) shall exceed Rs. 20,000/- |
| v) Exceeds Rs. 10,000,000/- | Rs. 30,000/- Lump Sum |
| 6. In miscellaneous applications filed in suits | Rs. Not more than Rs. 2,000/- as decided by the Court. |
| 7. In execution cases including Miscellaneous Proceeding in such execution cases | Rs. 5,000/- |
| 8. In application for review of judgement | Rs. Half of the fee for the original suit |

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| 9. In arbitration proceeding for setting aside award and for arbitration appeals | Rs. 10,000/- |
| 10. In election petition under the State Acts | Rs. 15,000/- |
| 11. In contested MAC Cases | Rs. 7,000/- |

'587' When such suits or cases or proceedings are settled, withdrawn, compromise or decided on admission of claim or dismissed for default, the fee shall not exceed one forth of the fee calculated under the above rule (Rule 586) unless the court otherwise directs, subject to a maximum of Rs. 5,000/-.

'588' Where such suits are decided ex-parte for the defendants not entering, appearance or having entered appearance, not contesting, the fees payable shall not exceed half the fee calculated under Rule 586 unless the court otherwise directs, subject to a maximum fee of Rs. 10,000/-.

'589' In suit for injures to the person or character of the plaintiff, such as suits for assaults or defamation, or for injuries to property or to enforce rights, where the pecuniary value of such injury or right can not exactly be defined, as in suits for interference with a right to light or water or to enforce a right of pre-emption or suits for the partition of joint property, where partition is improperly resisted, and generally in all suits not included in Rule 586, if the plaintiff succeeds, the Court may order the fees of the pleaders for the parties to be calculated with reference either to the amount decreed or according to the valuation of the, or according to such a sum, not exceeding the valuation, as the Court shall think reasonable and fix such fee with reference to the importance of the subject of the dispute.

'590' In this and the following rules, cases under Part-III of the land Acquisition Act, 1894, shall be deemed to be suits and the fees allowable therein may be calculated on the amount of compensation decreed in excess of the sum tendered by the Collector. In the event of the sum tendered by the Collector being decreed, pleaders fees may be awarded on the difference between that sum and the sum claimed.

Provided that, in any case in which the remuneration under the above rules shall, in the opinion of the Presiding Judge, prove to be insufficient or in any case not provided for, he shall be at liberty to allow pleaders' fees, as in miscellaneous cases.

'591' If the suit is dismissed upon the merits or be decided in favour of the defendants, the pleader's fees shall be calculated according to the scale in Rule 586 on the whole value of the suit. If the suit be dismissed on merits and decree awarded to the defendant for any matter not included in the plaint, the pleader's fees shall be calculated upon the amount involved in the plaint plus the amount decreed according to the scale in Rule 586.

'592' If the suit is decreed for the plaintiff as to part only of his claim and as to the reminder is dismissed or decreed for the defendant, the fees payable by any party in respect of the fees of his adversary's pleader shall be fixed with reference to the value of that part of the claim in respect of which such adversary shall succeed, and shall be calculated according to the scale in Rule 586.

'593' If several defendants, who have a joined or common interest succeed upon

a joint defence or upon separate defences substantially the same, not more than one pleader's fee shall be allowed, unless the Court orders otherwise for reason to be recorded. If only one fee be allowed the Court shall direct to which of the defendants it shall be paid or shall apportion it among the several defendants in such manner as the Court thinks fit.

'594' If several defendants who have separate interests, set up separate and distinct defences and succeed thereon, a fee for one pleader for each of the defendants who shall appear by a separate pleader may be allowed in respect of his separate interest. Such fee, if allowed, shall be calculated with reference to the value of the separate interest of such defendant, according to the scale in Rule 586.

'595' The amount to be allowed on account of the fee of an adversary's pleader in all types of appeals shall be calculated on the same scale as in original suits and cases.

'596' When the interest of several appellants is joint, not more than one pleader's fee shall be allowed, unless the Court shall otherwise orders for reasons to be recorded. If one fee only be allowed the Court shall direct to which of the appellants it shall be paid, or shall apportion it amongst the several appellants in such proportion as it shall think fit.

'597' If several respondents in one appeal appears by separate pleaders, in determining whether several pleader's fees shall be allowed, the Court shall be guided by the principles laid in Rules 593 and 594.

'598' (1) If under the provisions of Rule 23 of Order XLI of the Code of Civil Procedure, the decree of a Lower Court be reversed on appeal, and the case be remanded to the Lower Court to be tried upon the merits, the Lower Court on passing its decree, may allow to the successful party such a sum as the Court shall consider to be reasonable, not exceeding half the amount calculated according to the scale in Rule 586 on account of its pleader's fee in respect of the rehearing, in addition to the full amount of its pleaders fee calculated according to that scale.

(2) If an appeal be preferred against the decree passed on remand, the fee, if any, allowed by the Appellate Court to the party succeeding in that appeal shall, not, unless for a special reason to be recorded, be less than one fourth, not more half of the amount calculated at the rate mentioned in Rule 586, provided by the decree of the Appellate Court remanding the case, the same party has been allowed a full pleader's fee in respect of the former appeal in the suit, either absolutely or conditionally, upon his succeeding upon the remand.

(3) If under Rule 25 of Order XLI of the code of Civil Procedure, an issue be framed and referred by the Appellate Court for trial by the Lower Court, the Appellate Court may, if it thinks proper, allow to the party who shall succeed in the appeal such a sum as the court shall consider reasonable, not exceeding half the amount calculated at the rate mentioned in Rule 586, for his pleaders fee in respect of the trial of the issue in the Lower Court, in addition to a full fee, in respect of the appeal, calculated at that rate.

'599' Notwithstanding the provisions of Rules 586 to 598, and the subject to the Provision that in no case shall the amount of any fee be less than Rs. 1,000/-. If any instance the payment of fees shall not be appear to the court to be just and equitable, it may, for special reasons to be recorded in the judgement or order, award a higher or lower fee than that therein prescribed.

'600' In cases in which the subject matter of the claim does not admit on valuation, the court shall fix reasonable fee, regard being had to be time occupied in the decision of the case and nature of the question, raised therein which shall not, however, exceed Rs. 10,000/-

'601' Rules 586 to 598, so far as they are applicable, extend to courts of small causes constituted under Act, IX of 1887.

Note :- Any other suits, in respect of which no fee is prescribed, the court shall, for the reason to be recorded, fix the fee having regard to the fee prescribed in Rule 586 above.

This department's Notification, No.JDR.251/1995/11, dtd. 01-08-1997 stands repealed and these amendments shall come into force with effect from the date of issue of this Notification.

(P. Saikia)

L.R. & Secretary to the Govt. of Assam
Judicial Department

Memo No. JDJ.503/2013/14-A

Dated Dispur the 15th June, 2015

Copy for information and necessary action to:

1. The Registrar General, Gauhati High Court, Guwahati-1.
2. The District & Sessions Judge,
3. The Deputy Commissioner,
4. The Chief Judicial Magistrate,
5. The Sub-Divisional Officer,
6. The Sub-Divisional Judicial Magistrate,
7. The Govt. Pleader,
8. The Asstt. Govt. Pleader,
9. The Deputy Secretary to the Govt. of Assam, Political (Cabinet Cell), Dispur.
10. The Principal Accountant General (A & E), Assam, Beltola, Maidamgaon, Guwahati-29.
11. The Director, Assam Govt. Press, Bamunimaidam, Guwahati-21 for publication in the next issue of the Assam Gazette.
12. Guard File.

By order etc.

Deputy Secretary to the Govt. of Assam
Judicial Department.