

DGP

No. 2/31/2011-5JJ(I)

From

The Financial Commissioner & Principal Secretary to Government Haryana, Administration of Justice Department

- To 1. All the Heads of Departments, the Commissioners, Ambala, Hisar, Rohtak and Gurgaon Divisions.
- 2. All the Deputy Commissioners and Sub-Divisional Officers (Civil) in Haryana.

Dated Chandigarh the, 14-11-2011

Subject: RFA No. 734 of 2011, State of Haryana Vs. Gurdev Singh- compliance of orders/directions issued by the Hon'ble Punjab & Haryana High Court, Chandigarh.

On the subject referred to above, it is intimated that Hon'ble Punjab & Haryana High Court vide order dated 07.03.2011 (Copy enclosed) has taken serious view regarding attesting of Affidavits that repeatedly affidavits and documents are being attested by Executive Magistrates and produced in the Courts without mentioning their names and in some of cases even date were also mentioned and attested the affidavits without proper identity. The operative part of the order is reproduced as under:-

\*Order 19 Rule 3, Section 139 CPC and Chapter 12, Part B of Volume IV of the Rules and Orders of Punjab and Haryana High Court deal with the affidavits. The relevant provisions for the purpose of attestation, as provided for in the High Court Rules and Orders are extracted below:-

**\*10. Affidavits generally to be confined to facts which are within defendant's knowledge.**- (i) Attention is drawn to Order XIX, Rule 3, which lays

down that affidavits shall be confined to such facts, as the deponent is able of his own knowledge to prove, except interlocutory applications (See Order XXXIX, Rules 6 to 10), on which statements of his belief may be admitted; provided that the grounds thereof are stated.

(ii) All interlineations, alterations or erasures in an affidavit shall be initialed by the person swearing it and the person before whom it is sworn. Such interlineations, alterations or erasures shall be made in such manner as not to

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obliterate or render it impossible or difficult to read the original matter. In case such matter has been obliterated so as to make it impossible or difficult to read it, it shall be re-written on the margin and initialed by the person before whom the affidavit is sworn.

**11. Identification of deponent-** Every person making an affidavit shall, if not personally known to the Court, Magistrate or other officer appointed to administer the oath or affirmation, be identified to such Court, Magistrate or officer by some person known to him; and such Court, Magistrate or officer shall specify, at the foot of the affidavit, the name and description of the person by whom the identification is made as well as the time and place of the identification and of the making of the affidavit.

**12. Mode of attestation.-** The Court, Magistrate, or other officer as aforesaid, before whom an affidavit is made, shall certify at the foot of the affidavit the fact of the making of such affidavit before him, and shall enter the date and subscribe his signature to such certificate, and shall, for the purpose of identification, mark, date, and initial every exhibit referred to in the affidavit. The name of the verifying authority must be signed in full, and care must be taken that his proper designation as a Civil Court or Magistrate is added.

**13. Female deponents.-** An affidavit purporting to have been made by a female declarant, who has not appeared unveiled before the Court, Magistrate, or other officer as aforesaid, before whom the affidavit is made, shall not be certified, unless and until has been duly identified before, and an affidavit of her identity by the person identifying her has been made before, and certified by such Court, Magistrate or officer.

**14. Attesting Officer's duty.-** If any person making an affidavit appears to the Court, Magistrate or other officer administering the oath or affirmation, to be ignorant of the language in which it is written or to be illiterate, or not fully to understand the contents of the affidavit, such Court, Magistrate or officer shall cause the affidavit to be read and explained to him in a language which both he and such Court, Magistrate or officer understand, either doing so himself, or

causing another person to do so in his presence. When an affidavit is read and explained as herein provided, such Court, Magistrate or other officer as aforesaid shall certify in writing at the foot of the affidavit that it has been so read and explained, and that the declarant seemed perfectly to understand the same at the time of making it.

**15. Attesting, signing and verification of the affidavits.-** Every affidavit shall be signed or marked and verified at foot by the deponent and attested by the Court, Magistrate, or other officer administering the oath or affirmation. Every page of the affidavit shall be signed by the deponent and initialed by the attesting officer. The verification by the deponent shall be in one of the forms attached hereto, and shall be signed or marked by the deponent. The attestation of the Court, Magistrate, or other officer administering the oath or affirmation shall also be in the form prescribed below.

**16. Manner of administering oath to deponent;-** In administering an oath or affirmation to the declarant in the case of any affidavit under the Code of Civil Procedure, the Court Magistrate or other officer appointed in that behalf shall be guided by the rules under Indian Oaths Act, 1873, printed in Part A of this Chapter and shall follow the form of verification by oath or affirmation hereto appended."

As has been noticed in the case in hand and also in number of other cases, which were dealt with earlier that the Executive Magistrates, who are attesting the affidavits, are not strictly complying with the requirement of the aforesaid rules.


In addition to this, what has been noticed is that even in the written statements/replies filed in court on behalf of the respondents, who have been pleaded by virtue of their office, the authorized officer, who signs such written statement or reply, does not disclose his identify by mentioning his name and designation, which makes it difficult to find out as to who signed the pleadings, in case the same is required later on. It is desirable that the officers, who sign written statements/replies on behalf of any official respondent, disclose their complete identity."

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In view of above observations the State Government has decided that Heads of Department will be responsible for any lapse of non compliance of the above directions.

These instructions should be brought to the notice of all concerned for strict compliance. Any default will be viewed seriously by the Government.

Yours sincerely,

  
Under Secretary Jails & Judicial,  
for Financial Commissioner & Principal Secretary to  
Government Haryana, Administration of Justice Department.

A copy is forwarded to all Financial Commissioner and Principal Secretaries/Commissioner and Secretaries to Government Haryana for information and necessary action.

  
Under Secretary Jails & Judicial,  
for Financial Commissioner & Principal Secretary to  
Government Haryana, Administration of Justice Department.

To All Financial Commissioner and Principal Secretaries/Commissioner and Secretaries to Government Haryana.


U.O.No. 2/31/2011-5JJ(1)

Dated Chandigarh the 14.11.2011

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
A copy is forwarded to the Registrar, Punjab & Haryana High Court, Chandigarh for information.

  
Under Secretary Jails & Judicial,  
for Financial Commissioner & Principal Secretary to  
Government Haryana, Administration of Justice Department.

U.O.No. 2/31/2011-5JJ(1)

Dated Chandigarh the 14.11.2011

A copy is forwarded to the Advocate General, Haryana, Chandigarh with reference to their letter No. 47211 dated 3.10.2011 addressed to the Chief Secretary to Government, Haryana for information.

  
Under Secretary Jails & Judicial,  
for Financial Commissioner & Principal Secretary to  
Government Haryana, Administration of Justice Department.

**OFFICE OF THE DIRECTOR GENERAL OF POLICE, HARYANA**

Enst. No. 11835-95/LA-I dated 18-11-2011.

A copy alongwith its enclosures is forwarded in the following for strict compliance:-

1. All heads of Police Offices in Haryana.
  2. D.A./DDA, PHQ, Haryana, Panchkula.
  3. All Branch Incharges of PHQ, Haryana, Panchkula.
- ← Incharge, IT Cell, PHQ. He is requested to load on police website as per order of worthy DGP, Haryana.

  
(Shashi Bala)  
Superintendent  
for Director General of Police, Haryana

14/11/11



CHANDIGARH (U.T.)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

For Private Use 008436

12/8/10

RFA No. 734 of 2010  
LAC Case No. 26 of 1996  
Notification U/s 4 dated 26.6.1989  
Revenue Estate of village Ramgarh.

For Private Use  
Department of Punjab & Haryana  
of 1914 U.C. Act

**MEMO OF PARTIES**

State of Haryana through Land Acquisition Collector, Ambala Panchkula  
..Appellant.

Versus

1. Gurdev Singh
2. Prem Singh
3. Gian Singh
4. Labh Singh  
sons of late Kishna s/o Mutsaddi
5. Charan Singh  
s/o late Sh. Sardara s/o Kishna s/o Mutsaddi  
all residents of village Ramgarh, Tehsil Panchkula, Distt. Ambala.

..Respondents.

Chandigarh  
Dated: 27.4.2010

Government Pleader, Haryana

(Jagmohan Singh)

4221

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17/11/11

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ATTESTED  
Examiner Judicial Department  
High Court of Punjab & Haryana  
Chandigarh

RFA Nos. 734 of 2011 and connected matters

Present: Mr. H. S. Hooda, Advocate General, Haryana with  
Mr. D. D. Gupta, Additional Advocate General, Haryana.

Notice in the applications for condonation of delay in filing and re-filing the appeals to the land owners.

A perusal of the affidavits, filed in support of the applications seeking condonation of delay in filing and re-filing of the appeals shows that the same have been attested by some Executive Magistrate at Panchkula. In one of the affidavits, he has not even mentioned any date, whereas in the other affidavit, date has been mentioned apparently by the person who had filled the dates in the affidavits. The name of the Executive Magistrate, who attested the affidavits, has not been mentioned.

In the working of any institution or the government, the officers may come and go. In the discharge of their duty, they have to sign lot of documents. It becomes very difficult, many a times impossible, to find out at a later stage as to who was the person who had signed a particular document. It is desirable that every officer/official, who signs any document or file, mentions his full name under the signatures.

In the present case, the manner in which the affidavit has been attested by the Executive Magistrate shows that he had merely put in his initials on a stamp attested as identified "Executive Magistrate, Panchkula". There is no identification on the affidavit. The officer has not put any date. The name of the officer is not appended under the signatures. If attestation of affidavit in the aforesaid manner is to be accepted as proper, then any one can put the stamp of Executive Magistrate and initial the same. The requirement of attestation of an affidavit is not merely a ritual.

Order 19 Rule 3, Section 139 CPC and Chapter 12, Part B of Volume IV of the Rules and Orders of Punjab and Haryana High Court deal with the affidavits. The relevant provisions for the purpose of attestation, as provided for in the High Court Rules and Orders are extracted below:

**"10. Affidavits generally to be confined to facts which are within defendant's knowledge.-** (i) Attention is drawn to Order XIX, Rule 3, which lays down that affidavits shall be

R.F.A. No. 734 of 2011 and connected matters

ATTESTED  
[Signature]  
Magistrate  
Civil Court  
[Date]

confined to such facts, as the deponent is able of his own knowledge to prove, except interlocutory applications (See Order XXXIX, Rules 6 to 10), on which statements of his belief may be admitted: provided that the grounds thereof are stated.

(ii) All interlineations, alterations or erasures in an affidavit shall be initialled by the person swearing it and the person before whom it is sworn. Such interlineations, alterations or erasures shall be made in such manner as not to obliterate or render it impossible or difficult to read the original matter. In case such matter has been obliterated so as to make it impossible or difficult to read it, it shall be re-written on the margin and initialled by the person before whom the affidavit is sworn.

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**12. Mode of attestation.-** The Court, Magistrate, or other officer as aforesaid, before whom an affidavit is made, shall certify at the foot of the affidavit the fact of the making of such affidavit before him, and shall enter the date and subscribe his signature to such certificate, and shall, for the purpose of identification, mark, date, and initial every exhibit referred to in the affidavit. The name of the verifying authority must be signed in full, and care must be taken that his proper designation as a Civil Court or Magistrate is added.

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R.F.A. No. 734 of 2011

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before the Court, Magistrate, or other officer as aforesaid, before whom the affidavit is made, shall not be certified, unless and until has been duly identified before, and an affidavit of her identity by the person identifying her has been made before, and certified by such Court, Magistrate or officer.

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R.F.A.No. 734 of 2011

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in Part A of this Chapter and shall follow the form of verification by oath or affirmation hereto appended."

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In addition to this, what has been noticed is that even in the written statements/replies filed in court on behalf of the respondents, who have been pleaded by virtue of their office, the authorised officer, who signs such written statement or reply, does not disclose his identify by mentioning his name and designation, which makes it difficult to find out as to who signed the pleadings, in case the same is required later on. It is desirable that the officers, who sign written statements/replies on behalf of any official respondent disclose their complete identity.

A copy of the order be sent to Chief Secretaries of Punjab and Haryana and also to Home Secretary, Union Territory, Chandigarh for compliance.

Adjourned to 9.5.2011.

A copy of the order be placed on the files of each connected case.

Sd/-RAJESH BINDAL  
JUDGE

7.3.2011  
mk

True Copy  
Certified to be true copy  
Examiner RFA Branch  
Home Department  
Chandigarh

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PUNJAB AND HARYANA HIGH COURT