

From

The Chief Administrator, (Legal Cell)
HUDA, Panchkula.

To

1. All the Zonal Administrators, HUDA.
2. All the Estate Officers, HUDA.
3. L.R., HUDA, Panchkula.
4. All Heads of Branches at HQ.
5. All DDAs & ADA at HQs and field.
6. All Panel Advocates (through e.mail only)

Memo No.DA-HUDA(HQ)-08/5653-5700
Dated: 29.5.2008

Subject: Minutes of the meeting held on 24.05.2008 under the Chairmanship of Sh.T.C.Gupta, IAS, Chief Administrator, HUDA.

Please find enclosed herewith a copy of minutes of the meeting held on 24.05.2008 to review the status of legal cases, alongwith copy of instructions issued vide memo LR- dated 29.05.2008 for information and further necessary action at your end.

DA/As above.

(A.K.Kalra)
District Attorney,
HUDA,(HQs), Panchkula.

Sub:- Procedure for defence of Complaints/Court cases in HUDA.

In supersession of all instructions issued on the subject, following procedure is ordered to be followed in Complaints/Court cases with immediate effect:-

1. Whenever a notice/summons/complaint is received from DCF or Civil Court by the Estate Office, the Estate Officer shall get it examined whether the grievance mentioned in the complaint/plaint is genuine or not. In case the claim made is genuine, grievance shall be redressed and a statement to this effect shall be made in the DCF/Civil Court through the Law Officer (ADA/DDA). There is no need to engage advocates in such cases. However, this action must be taken immediately before the next date of hearing after obtaining approval of the Competent Authority.

2. In case the Estate Officer decides to contest the same, a competent advocate shall be immediately appointed by him out of the panel approved by the Government and who has accepted the Terms & Conditions as circulated vide Memo No. LR-EO-08/208 dated 7.1.2008. The reply shall be got prepared and submitted in the court either on first date or positively on the next date. Wherever Estate Officer is unable to file the reply during first two dates, report regarding this shall be sent to the C.A. in L-1 format through email on fortnightly basis by 17th of the month and by 2nd of the succeeding month for the 2nd fortnight. A copy of this will be sent to all the Zonal Administrators also. In Land Acquisition Cases, a similar report in Format L-I shall be sent by Zonal Administrators to C.A.

3. Procedure mentioned at Sr.No.1 and 2 shall be adopted by LR (HQ) in cases of notices from State / National Commission, High Court, MRTP Commission, Supreme Court. Legal Cell of the HQ shall immediately obtain comments of the concerned Branch and fix deadline for sending the comments keeping in mind the next date in the case. In no case, filing of reply shall be delayed beyond two dates. L.R. (HQ) shall also submit report regarding filing of delayed replies in L-I Format to CA on file on fortnightly basis as mentioned in Para 2 above.

4. In the Writ Petitions and Court cases pertaining to Land Acquisition, written statements shall be approved and filed through the conducting Advocate by the concerned Zonal Administrator on behalf of HUDA being Chairman of Joint Inspection Committee of Land Acquisition as he has access to the record of Land Acquisition and is fully conversant with the purpose for which the land is acquired.

5. The conducting advocate shall send a signed copy of the reply filed in the Court to LR, HUDA where the appointment of advocate has been done by the HQs. as well as to concerned Zonal Administrator in case of Land Acquisition cases. In case of DCF and Civil Courts, it will be sent to the concerned Estate Officer. Copy of the reply shall be sent within three working days for record purposes as mentioned in Clause 4 of Memo No.LR-AEO-08/208 dated 7.1.2008 pertaining to 'Revision of fees of HUDA Counsels and new terms and conditions of engagement of HUDA Counsels'. In addition, an intimation through e.mail shall also be sent by the concerned advocate regarding such filing. It will be the responsibility of the O/o Estate Officer, Zonal Administrator, Legal Cell(HQs) to ensure that all Court case files are complete and contain copies of the Plaints/Writ Petitions/Appeals, their replies and orders of the Courts passed from time to time.

6. Following officers/authorities will be competent to engage advocates:
- | | | |
|-------|----------------------------------|---------------|
| (i) | DCFs/Civil Courts (Lower Courts) | E.O. |
| (ii) | Labour Courts / District Courts. | Administrator |
| (iii) | Rest | C.A. |

7. Advocates in Execution and contempt Petitions where CA is a party shall be appointed by the CA and no reply shall be filed by any other Officer on behalf of CA unless it is approved by CA himself.

8. Because of limit of only 30 days in filing First Appeal, grounds of appeal shall be approved by the respective Estate Officer who will file the FA in the State Commission through designated Counsel approved by the CA. The conducting advocate will send a signed copy of the FA filed in the Court to LR, HUDA as well as concerned Estate Officer within three working days for record purposes as mentioned in Clause 4 of Memo No.LR-AEO-08/208 dated 7.1.2008 pertaining to 'Revision of fees of HUDA Counsels and new terms and conditions of engagement of HUDA Counsels'. In addition, an intimation through e.mail shall also be sent regarding such filing.

9. Whenever a decision is pronounced by DCF/Civil Court/Labour Court/District Court, certified copy of the judgment alongwith complete documents/files like complete plot file where-ever applicable, Court case file and Opinion of the conducting advocate regarding the grounds for filing/non-filing of the appeal shall be sent to the Zonal Administrator if Estate Officer is of the opinion that appeal is to be filed. The decision regarding filing of appeal against the decisions of lower Courts in District Courts shall be taken at the level of Administrator only who will be competent to engage the advocate. In case Estate Officer/Zonal Administrator is of the opinion that orders may be complied with, same may be sent to HQs through Zonal Administrator for taking a decision whether the order is to be complied with or Appeal/Revision has to be filed. No case should be sent to Administrator/HQs without the opinion of the conducting advocate as well as recommendations of the Estate Officer.

10. Where-ever a decision has been taken to file an appeal, it will invariably be accompanied with a request for staying the operation of judgment of the lower Forum/Court. However, in case stay is not granted by the higher Court/Commission, the Headquarter may implement the orders of the lower Court/Consumer Forum subject to the decision of the higher Courts/Commission. It is relevant to quote Section 24 of Consumer Protection Act, 1986 as under:-

24. Finality of orders. – Every order of a District Forum, the State Commission or the National Commission shall, if no appeal has been preferred against such order under the provisions of the Act, be final.

Therefore, if any appeal has been filed, legally speaking orders have not attained finality & no execution can be filed. It has been seen that this plea has not been taken in most of the replies to executions filed in various DCDRFs and, therefore, this plea should invariably be taken in all the Execution Petitions.

11. All Appeals/Revision Petitions shall be filed within the prescribed limit period. The application for condonation of delay, if any, should be carefully worded and should give date wise reasons for delay. In case any official is responsible for delay, he should first be charge sheeted or his explanation may be called which should be attached alongwith application for delay so as to justify the delayed filing of Appeal/Revision. Hundreds of cases of HUDA have been dismissed on the ground of delay alone by State Commission/National Commission/High Court/ Supreme Court because the delay was not properly explained by the Officers of

HUDA specially the Estate Officers. They are in the habit of filing routine delay applications supported with their affidavit mentioning that it takes time to take a decision to file Appeal/Revision being a Government department and involves various stages of decision making. Such routine applications/affidavits cannot be accepted by any person of reasonable prudence what to talk of a Court of Law. Hence, utmost care should be taken while drafting and filing applications/affidavits for condonation of delay.

12. Where a case has been decided against HUDA and it has been decided by the HQs not to file appeal, compliance of the orders shall be done within 15 days and compliance report shall be sent to the Legal Cell of the HQs so that it is placed on file.

13. Copies of complaint/plaint/decision of the DCF or Court/appeal/comments etc. should always be available in the concerned plot file.

14. Authority competent to engage advocate shall ensure that fees of the advocate is released in time. The Authority Competent to engage the Advocate as specified in para-5 shall also be competent to sanction the fees of the advocates engaged by it in terms of memo No.LR-EO-08/208 dated 07.01.2008.

15. In case any execution/contempt application is filed against any official of HUDA, concerned Administrator shall fix responsibility for non-compliance of the orders so that person/authority can be charge-sheeted because if the judgments, where HUDA has been unable to procure stay orders or give satisfactory reply based on Section 24 of Consumer Protection Act in the Executing Court, are implemented subject to the decision of higher Courts, there will be no occasion to file such cases except where approval of higher authorities is required for carving out/allotment of alternate plots etc.

16. Each Law Officer i.e. ADA & DDA in the field as well as in the Hqs. will maintain case diaries showing the details of cases alongwith names of advocates, listed on each day. These case diaries shall be the property of HUDA and will be handed over to the successor/controlling officer at the time of leaving charge or going on leave. E.O. and Administrator shall inspect these diaries atleast once in a week/month respectively and sign the same as a proof of having inspected the same.

17. Following Returns are required to be sent to HQs & these Returns shall be prepared w.e.f. 1.4.2008. While Return D-1 should be sent only through e.mail by the end of next day, L-1 should be sent on fortnightly basis and remaining Returns should be sent on monthly basis by 7th day of succeeding month. The responsibility to send the Returns will primarily lie with the concerned Estate Officer & Zonal Administrator. For failure to send the Returns in time, disciplinary action shall be taken against them. LR/DA, HUDA (HQs) shall be responsible for compiling these Returns & submitting the same to CA for his information & necessary action on file within three working days of the deadlines given for these Returns.

Daily Report regarding decided cases in case of DCFs/Lower Courts **(D-1)**:

Date of Decision_____.

| Sr. No. | Name of Court/ Forum | Case No. | Title | Name of Advocate | Brief decision | Date when copy of orders applied. |
|---------|----------------------|----------|-------|------------------|----------------|-----------------------------------|
|---------|----------------------|----------|-------|------------------|----------------|-----------------------------------|

Note: If no decision has been pronounced on a particular date, 'Nil' report should not be sent.

(i) Fortnightly report regarding delayed filing of replies **(L-1)**.

| Sr. No. | Name of Court / Commission | Name of Case. | Date when notice was received in office. | Name of Advocate, if engaged. | Initial two dates of hearing | Reasons for non-filing of reply. |
|---------|----------------------------|---------------|--|-------------------------------|------------------------------|----------------------------------|
|---------|----------------------------|---------------|--|-------------------------------|------------------------------|----------------------------------|

(ii) Monthly report of court cases to be submitted by 7th of succeeding month: **(L-2)**

| Sr. No. | Name of Court | Opening balance | Added During the month | Decided against HUDA | Decided In favour of HUDA | Dismissed as withdrawn | Total | Closing balance |
|---------|----------------------------|-----------------|------------------------|----------------------|---------------------------|------------------------|-------|-----------------|
| 1. | Lower Courts | | | | | | | |
| 2. | Distt. Courts | | | | | | | |
| 3. | Labour Courts | | | | | | | |
| 4. | High Courts | | | | | | | |
| 4(a) | High Courts-LAC | | | | | | | |
| 4(b) | High Courts -Others | | | | | | | |
| 5. | Supreme Court | | | | | | | |
| 6. | Distt. Forums | | | | | | | |
| 7. | State Commission | | | | | | | |
| 8. | National Commission | | | | | | | |
| 9(a) | Executions-Consumer Forums | | | | | | | |
| 9(b) | Executions-Others | | | | | | | |
| 10. | Contempt Petitions | | | | | | | |
| | Total | | | | | | | |

(iii) Compliance Report regarding cases decided against HUDA since 1.4.2008 **(L-3)**:

| Sr. No. | Name of Court | Fit for appeal or not. | If yes, then Whether appeal filed. | Date of filing appeal | Name of Advocate | Whether stay obtained. | If not fir for appeal, date of compliance of orders. |
|---------|---------------|------------------------|------------------------------------|-----------------------|------------------|------------------------|--|
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Note: If appeal has been filed & stay obtained, then this case should be deleted from this Return otherwise it will continue to appear.

(iv) Monthly performance of Advocates **(L-4)**:

| Sr. No. | Name of the Advocate | Opening balance | Fresh cases entrusted | Cases decided against HUDA | Cases decided in favour of HUDA | Dismissed as withdrawn | Total | Closing balance |
|---------|----------------------|-----------------|-----------------------|----------------------------|---------------------------------|------------------------|-------|-----------------|
|---------|----------------------|-----------------|-----------------------|----------------------------|---------------------------------|------------------------|-------|-----------------|

Note: The total of closing balance of this Return should tally with the total closing balance of Return in Format **'L-2'**.

(v) Monthly report of Executions – Consumer Forum Cases (**L-5**):

Name of Consumer Forum:

| Sr. No. | Name of case | Date of decision of case regarding which execution has been filed | Date of filing of execution. | Last date of hearing. | Whether appeal filed & name of Advocate. | Whether stay obtained | Reasons for non-compliance of orders | Date of filing reply/objections in Execution Petition. | Name of Advocate in Execution Petition. |
|---------|--------------|---|------------------------------|-----------------------|--|-----------------------|--------------------------------------|--|---|
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Note: This Return should be prepared separately for each Consumer Forum.

(vi) Monthly report of Executions – Other Cases (**L-6**):

| Sr. No. | Name of Court / Commission | Name of case | Date of decision of case regarding which execution has been filed | Date of filing of execution | Last date of hearing. | Whether appeal filed & name of Advocate. | Whether stay obtained | Reasons for non-compliance of orders | Date of filing reply/objections in Execution Petition. | Name of Advocate in Execution Petition. |
|---------|----------------------------|--------------|---|-----------------------------|-----------------------|--|-----------------------|--------------------------------------|--|---|
|---------|----------------------------|--------------|---|-----------------------------|-----------------------|--|-----------------------|--------------------------------------|--|---|

(vii) Monthly report of contempt cases (**L-7**):

Name of Court:

| Sr. No. | Name of case | Date of decision of case regarding which contempt has been filed | Date of filing of contempt application | Last date of hearing. | Whether appeal filed & name of Advocate. | Whether stay obtained. | Reasons for non-compliance of orders |
|---------|--------------|--|--|-----------------------|--|------------------------|--------------------------------------|
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Note: This Return should be prepared separately for High Court, Supreme Court, MRTP Commission etc.

L.R.

D.A.

All Zonal Administrators

All Estate Officers

All Heads of Branches at HQ.

All DDAs & ADA at HQs and field.

All Panel Advocates (through e.mail only)