

## CHAPTER-VII

## Reference to Full Bench

**1. Reference to Chief Justice for Full Bench decision.-**

Whenever a <sup>1</sup>[Division Bench] differs from any other <sup>2</sup>[Division Bench on] a point of law, the case shall be referred to the Chief Justice for decision by a Full Bench.

**2. Reference in Writ Petition and Civil Appeal.-** If

the question <sup>3</sup>[arises] in a writ petition or in an Appeal from <sup>4</sup>[a Decree or Order, the Division Bench] referring the case shall state the point or points on which it differs from the decision of a former <sup>5</sup>[Division Bench and shall refer the Writ petition or the Appeal to the Chief Justice for final decision by a Full Bench].

**3. Reference on law point only in an appeal.-** If the

question <sup>6</sup>[arises in an Appeal from a Decree or Order, only the questions of law shall be referred], and the Full Bench shall return the case with an expression of its opinion upon the points of law for final adjudication by the <sup>7</sup>[Division Bench] which referred it, and in case of necessity, in consequence of the absence of any or either of the referring Judges, for the ultimate decision <sup>8</sup>[by another Division Bench].

<sup>1</sup> The words "Division Bench" were substituted for the words "Division Court" by Notification No. 181-G dt.22-10-2012.

<sup>2</sup> The words "Division Bench on" were substituted for the words "Division Court upon" by Notification *ibid*.

<sup>3</sup> The word "arises" was substituted for the word "arise" by Notification *ibid*.

<sup>4</sup> The expression "a Decree or Order, the Division Bench" was substituted for the expression "an Appellate Decree or Order, the Court" by Notification *ibid*.

<sup>5</sup> The words "Division Bench and shall refer the Writ petition or the Appeal to the Chief Justice for final decision by a Full Bench" were substituted for the words "Division Court and shall refer the Appeal for final decision by a Full Bench" by Notification *ibid*.

<sup>6</sup> The expression "arises in an Appeal from a Decree or Order, only the questions of law shall be referred" were substituted for the expression "arise in an Appeal from an Original Decree or Order, the questions of law shall alone be referred" by Notification *ibid*.

<sup>7</sup> The words "Division Bench" were substituted for the words "Division Court" by Notification *ibid*.

<sup>8</sup> The words "by another Division Bench" were substituted for the words "of another Division Court" by Notification *ibid*.

**4. Reference in other cases.**-If the question <sup>1</sup>[arises] in any matter coming before a <sup>2</sup>[Division Bench] in the exercise of its Civil Revisional <sup>3</sup>[or other] Jurisdiction, the point or points shall be stated as provided in rule 2 above, and the matter shall be referred <sup>4</sup>[to the Chief Justice] for the final decision by a Full Bench.

**5. Recommendation for Full Bench of 5 Judges.**-If in any case a Division Bench differs from the decision of another Division Bench on point of law, the case shall be referred to the Chief Justice for decision by a Full Bench. In making the reference the referring Bench may, if it considers necessary, recommend to the Chief Justice that a Full Bench of five Judges be constituted.]

**6. Larger Bench.**-If a Full Bench consisting of three Judges cannot come to a majority decision, they shall refer it to the Chief Justice for constitution of a larger Bench.

**7. Binding effect of Full Bench decision.**- Every decision of a Full Bench shall be treated as binding on all <sup>6</sup>[Division Benches], and Judges sitting singly, upon the point of law <sup>7</sup>[\*\*\*] determined by the Full Bench, unless it be subsequently reversed by a larger Bench, specially constituted, consisting of such number of Judges as in each case <sup>8</sup>[\*\*\*] fixed by the Chief Justice, or unless a contrary rule be laid down by the <sup>9</sup>[Appellate Division].

**10. Distribution of copy of Full Bench decision.**- The copy of Judgment of the Full Bench, in all cases, shall be distributed for information to all the Judges of the High Court Division.]

<sup>1</sup> The word "arises" was substituted for the word "arise" by Notification No. 181-G dt. 22-10-2012.

<sup>2</sup> The words "Division Bench" were substituted for the words "Division Court" by Notification *ibid*.

<sup>3</sup> The words "or other" were inserted by Notification *ibid*.

<sup>4</sup> The words "to the Chief Justice" were inserted by Notification *ibid*.

<sup>5</sup> Rule 5 was substituted for the original rule 5 by Notification *ibid*.

<sup>6</sup> The words "Division Benches" were substituted for the words "Division Courts" by Notification *ibid*.

<sup>7</sup> The words "or usage having the force of law" were omitted by Notification *ibid*.

<sup>8</sup> The words "shall have been" were omitted by Notification *ibid*.

<sup>9</sup> The words "Appellate Division" were substituted for the words "Supreme Court" by Notification *ibid*.

<sup>10</sup> Rule 8 was substituted for the original rule 8 by Notification *ibid*.