

## **WRIT OF SUMMONS**

There was a similar provision in the Bombay Rules, which has been omitted in the new Rules which came into effect from 1 January 1980 and the warrant of arrest now being issued by the court does not contain a citation to the owners and other parties interested in the ship. The Bombay Rules currently applicable enjoin the service of the writ of summons on the ship in the same manner as the warrant of arrest. The writ of summons is in the same form as applicable to suits filed in the ordinary original civil jurisdiction of the High Court with such variations as the circumstances of the case may require. The prescribed form requires the filing of an appearance and a written statement of the defence to the suit and delivery of a copy thereof to the plaintiffs within 30 days from the service thereof. Unless otherwise directed, the returnable date of the writ of summons is 16 weeks after the date of filing of the suit and on that date the suit will be placed before the judge in chambers for directions. If on that date no appearance has been filed, the judge may order the suit to be set down on the board to be proceeded with as undefended.

This difference in the Bombay Rules is liable to put a plaintiff, particularly in a suit for wages, who has arrested a ship for his claim, to inconvenience and hardship as it precludes him from having the suit set down on board for judgment for default of appearance before the returnable date. To overcome this problem, in the writer's view, a direction will have to be obtained from the judge ordering the arrest, for variation of the form of the writ of summons by abridging the time for entry of appearance to 12 days of the service thereof and fixing the returnable date to say two weeks after such service.

When the warrant of arrest is citatory in form as under the Calcutta and Madras Rules, it may not be necessary for a separate writ of summons to be served on the ship. (It has been so held by the Bombay High Court when the Bombay Rules were similar to the Calcutta and Madras Court Rules.) Nevertheless, in the writer's view it is advisable to ensure that the Writ of Summons is issued by the registry and served at the same time as the warrant of arrest. A writ of summons on the vessel may not be required if warrant of arrest is properly served on the vessel.

The Rules of all the three courts provide that in a suit in rem no service of warrant of arrest shall be required when the advocate for the defendant ship agrees to accept service and to give security or to pay money into court.