

**GENERAL RULES
(CIVIL & CRIMINAL), 2018**

(AS AMENDED UPTO 04/07/2022)

VOLUME - I

RAJASTHAN HIGH COURT, JODHPUR

NOTIFICATION

As amended upto 04.07.2022

No.06/S.R.O./2018

Date :04.07.2018

The High Court of Judicature for Rajasthan, in exercise of the rule making powers conferred upon it by Article 227 of the Constitution of India and all other powers enabling it in that behalf, and with the approval of Governor of Rajasthan, has made the revised Rules annexed hereto for the guidance of the Courts and tribunals subordinate to it.

PART- I
ORDER 1
PRELIMINARY

1. Title-

These Rules may be called the General Rules (Civil & Criminal) 2018.

2. Application-

These Rules shall come into force from the date of publication of notification in the Official Gazette and shall apply to all suits, appeals, judicial proceedings of whatever nature and matters connected thereto, so far as may be, in all the Courts and tribunals subordinate to the High Court, pending or commenced on or subsequent to that date.

3. Repeal-

All previous rules, orders, or regulations relating to the matters which are provided for in these Rules, are hereby repealed:

Provided that the repeal shall not affect the previous operation of the rules, orders or regulations so repealed or anything duly done or to be done or suffered there-under.

4. Definitions-

In these Rules, unless there is anything repugnant in the subject or context-

- (a) "Court" means and includes every Court and Tribunal subordinate to the High Court of Judicature for Rajasthan.
- (b) The "Code" in context to civil cases means the Code of Civil Procedure, 1908 and in context to criminal cases means the Code of Criminal Procedure 1973 as amended time to time.
- (c) "Electronic record" shall have same meaning as assigned to it in The Information Technology Act, 2000.
- (d) The expression;
 - (i) "District Judge" includes Additional District Judge.
 - (ii) "Sr. Civil Judge" includes Additional Sr. Civil Judge.
 - (iii) "Civil Judge" includes Additional Civil Judge.
 - (iv) "Sessions Judge" includes Additional Sessions Judge.
 - (v) "Chief Judicial Magistrate" includes Chief Metropolitan Magistrate/ Additional Chief Judicial Magistrate/ Additional Chief Metropolitan Magistrate.
 - (vi) "Judicial Magistrate" includes Metropolitan Magistrate/ Additional Judicial Magistrate/ Additional Metropolitan Magistrate.

Vide Notification No. 06/SRO/2018 dated 4th July, 2018, published in the Rajasthan Gazette, Extraordinary Part-I (b), dated 31.12.2018

- (vii) "Chief Judicial Magistrate", "Chief Metropolitan Magistrate", "Magistrate" and other expressions, used hereinafter but not defined, shall have same meaning as defined in Criminal Procedure Code.
- (e) "Form" means the form prescribed in these Rules.
- (f) "Government" means the Government of State of Rajasthan.
- (g) "High Court" means the High Court of Judicature for Rajasthan.
- (h) "Judicial Officer" means the Presiding Officer of a Court or tribunal subordinate to High Court, as the case may be.
- (i) "Narcotic Drugs and Psychotropic Substances" means the Narcotics Drugs and Psychotropic Substances as defined in Section 2 of Narcotics Drugs and Psychotropic Substances Act, 1985 as amended time to time.
- (j) "Pleader" means pleader as defined under section 2 (15) of the Code of Civil Procedure.
- (k) "Senior Munsarim" includes Munsarim and vice-versa
- (L) "State" means the State of Rajasthan.

5. Working hours of court and office-

- (1) The provisions relating to working hours of office and the court will be as per notification issued time to time by the Rajasthan High Court.
- (2) The hours of work in offices of Courts shall be 10. 00 A. M. to 5. 00 P. M. with a lunch break from 1. 30 P. M. to 2. 00. P. M. and during summer hours 7. 30 A. M. to 1. 00 P.M. with Tea break from 10.00 A.M. to 10.15 AM, if morning hours are observed on the special or general orders of the High Court.
- (3) Daily sittings of Judges.-
The hours of work in the Courts shall be as under -
10.00 A.M. to 10.30 A.M. In Chamber
10.30 A.M. to 01.30 P.M. In Court
01.30 P.M. to 02.00 P.M. Lunch Interval
02.00 P.M. to 04.30 P.M. In Court
04.30 P.M. to 05.00 P.M. In Chamber
During summer, if morning hours are observed under the orders of the High Court, the hours of work shall be as under –
7.30 A.M. to 8.00 A.M. in Chamber
8.00 A.M. to 10.00 AM in Court
10.00 A.M. to 10.15 A.M. Tea interval
10.15 AM to 12.30 P.M. in Court
12.30 PM to 1.00 PM in Chamber
Provided that the Presiding Officer may retire to his Chamber as soon as the Court work fixed for the day is over and to remain available in Chamber till the working hours are over :
Provided further that the Presiding Officer may in his discretion sit in the Court also during the hours fixed for the Chamber sitting.
Provided further that nothing shall preclude entertainment of any urgent matter beyond normal office/ court hours or on a holiday.

6. Administrative control—

Subject to any Act or Rules in this behalf and to the superintendence of the High Court, the District Judge shall have administrative control over all Courts and tribunals including the Court of an Additional District Judge within the local limits of his jurisdiction.

7. **Officers-in-charge—**
Subject to the general control and supervision of the District Judge, Record Room, Amins, Copying Department, Malkhana, at any other place where two or more Courts are located, shall each be placed in charge of a judicial officer nominated by the District Judge. However, the Central Nazarat shall be generally placed in charge of a senior judicial officer.
8. **Attendance Register of staff—**
The Sr. Munsarim or the Reader, as the case may be, shall maintain an attendance register of the staff in the prescribed form (**Register No.200**) and shall put it up before the Presiding Officer on every Monday and if Monday is a holiday then on the next working day. The Presiding Officer shall also make surprise inspection of the register atleast once a month to inform himself about the maintenance of punctuality in observance of office hours. He shall make a quarterly report regarding the maintenance and observance of punctuality in office as well as in court hours to the District Judge.
9. **Clerks not to take records—**
Clerks shall not take records to their houses and shall finish their work within office hours in court building.
10. **Administrative work—**
All administrative work shall, so long as there is judicial work to be done between the above hours, be conducted outside those hours, and may be done in the Presiding Officer's chambers.
11. **Work on holidays—**
No judicial matter shall be heard on a holiday:
Provided that on a holiday the court may not refuse to take an order urgently required in the interest of Justice.
12. If a case is fixed for a day on which the court does not sit on account of its being later found or declared to be a holiday, the case will be taken up on the next day on which the court sits.
13. **Attendance Register of the Presiding Officer—**
A register of attendance in the prescribed form (**Register No.201**) shall be kept by every Presiding Officer in his own handwriting and shall be signed by him at the end of each month, provided that if a Presiding Officer is transferred during the month, he shall sign such a register at the end of the last date he attended that office, instead of at the end of that month. The District Judge shall forward a true copy of his own register (**Register No.201**) to the High Court at the end of each month (**Return No.2**) and shall also report if the subordinate courts have observed court hours during the month. The registers of all subordinate courts at headquarter and true copies of registers or outlying courts shall be submitted to the District Judge at the end of each month. The District Judge may pass necessary orders about the timings observed by subordinate courts and shall forward such registers or their copies to the High Court only, if he considers it necessary.
14. **Daily Cause List—**
A Cause List in the prescribed form (**F.101**) of cases fixed for hearing on a day shall be prepared in triplicate in legible Hindi/ English through Case Information System. It shall be signed by the Reader of the court and shall be pasted on the previous working day on the Notice Board of the court displayed in a conspicuous place in the courthouse. It shall also be displayed on the website of the Court. One of the copies of

Cause List shall be kept with the Presiding Officer during the hearing in the court and the third copy shall be kept with the Reader. In the preparation of such list, preference shall be given to cases which are at hearing or have been adjourned from the previous day. The order in which cases are entered shall not be departed from without order of the Presiding Officer.

In the seventh column it shall be noted in regard to each case for what purpose it is to be laid before the court, for instance for settlement of issues or for recording evidence or for final disposal or for arguments or for delivery of judgment. The Reader shall maintain a file of Daily Cause List which shall be preserved for one year and shall be destroyed at the end of the next calendar year.

15. Time for presentation of applications—

The District Judge shall fix a time, of which due notice shall be pasted on the Notice Board and website of his Court, and for all courts subordinate to him, for the presentation of applications, etc. to the Presiding Officer of the court. In the absence of any special order to the contrary such applications etc. shall be presented during half an hour at the commencement of the sitting of the court and half an hour before the time for rising of the court.

16. Rubber stamps prohibited—

The use of rubber stamps in the judicial order for signatures required to be made by any law or rules, is forbidden.

17. Table of jurisdiction—

In every court-room there shall be hung up in a conspicuous place a notice setting forth, in tabular form, the territorial and pecuniary jurisdiction as notified by the State Government and the High Court from time to time of the court. The Sr. Munsarim or Reader of the court concerned, as the case may be, shall be responsible for the maintenance up-to-date of this table of jurisdiction.

18. Absence of District Judge—

Whenever an Additional District Judge or a Sr. Civil Judge, assumes charge of the office of District Judge and exercise his powers under section 11 of the Rajasthan Civil Courts Ordinance (No. VII of 1950) he may, while he is incharge of such office in addition to his normal duties, carry on the current routine work of the District Judge and may pass interim judicial orders in any urgent civil matter arising out of or relating to the cases on the file of the District Judge :

Provided that while passing such order, the Additional District Judge or the Sr. Civil Judge, as the case may be, shall direct that the same shall be put up for final orders before the District Judge, as soon as may be possible on the latter resuming or assuming charge of the office and the District Judge may thereupon pass such orders as he may consider just or proper.

19. Court dress for officers and lawyers—

The following distinctive costume shall be worn by Presiding Officers of the Courts and by Advocates and pleaders practicing in such courts :-

Black Coat (Buttoned up or of open collar) or black achkan with bands; with a white shirt and white/black/grey/black and gray striped trousers and with the black achkan, a white churidar payjama shall be worn.

The lady Presiding Officers and lady Advocates appearing before the Courts shall wear a white saree without border or with sober border with white Blouse or white Salwar Kurta alongwith open neck or

open collar or buttoned up black coat with white bands.

Dress of the public Prosecutors/ Assistant Public Prosecutors- Black Coat (Buttoned up or of open collar) or black achkan with bands; with a white shirt and white/black/grey/black and gray striped trousers. If open collar black coat is worn, then black tie shall be worn.

The lady Public Prosecutor/ Assistant Public Prosecutor appearing before the Courts shall wear a white saree without border or with sober border with white Blouse or white Salwar Kurta alongwith open neck or open collar or buttoned up black coat.

ORDER 2

INSPECTION OF RECORDS

- 1. Separate room for inspection –**
The Presiding Officer of each Court, or where there are centralized arrangements for the inspection of records of more than one Court located at the same station, the senior-most, Judicial Officer shall allot a room for the inspection of records. Where there is no official appointed exclusively as an inspection Clerk, he shall appoint one of the clerks to perform the duties of the Inspection Clerk, in addition to his own duties.
- 2. Prohibition against giving surreptitious information-**
Ministerial Officer and the fourth grade staff of the Court should be made to understand that no information or copy shall, in any circumstances, be given otherwise than as laid down in the rules and that surreptitious or gratuitous supply of information or copy is strictly forbidden.
- 3. Papers in office not open to inspection –**
The papers other than those of a judicial record shall not be open to inspection except under an order in writing of the Presiding Officer made on the office report.
- 4. Inspection of papers in office –**
No record or paper in the office or in the custody of an officer of the Court shall be inspected by any person other than the Presiding Officer or an officer of the Court, except under an order in writing signed by the Presiding Officer:
 Provided firstly, that the Presiding Officer may, in his discretion, without making a written order in that behalf, permit a party to a case or his pleader to inspect in the court room the record of a pending case on the day of hearing and
 Provided secondly, that memorandum book of dates of hearing (Peshi Register) shall be made available for inspection free of charge, without any written application or order.
- 5. Application for inspection –**
Except in the case mentioned in the proviso to rule 4, no order for inspection of a record or of any paper in a record, or for the inspection of a book or register shall be made except upon a written and duly stamped application, provided that no stamp shall be required in case of application for inspection made on behalf of the Government, or of the accused in custody or any person in receipt of free legal aid.
- 6. Papers in office not open to inspection—**
The papers other than those of a judicial record shall not be open to inspection, except under an order in writing of the Presiding Officer made on an office report.
- 7. Application for inspection by party to a case –**
Any party to a case, appeal or other proceedings in the Court, and any such party's advocate, or attorney, who has duly filed a Vakalatnama or power of attorney, may apply for an order to inspect the record, or any papers in such case, appeal or other proceeding.

8. Application for inspection by non-party –

- (1) Any person, other than a person to whom rule 6 applies, may apply for an order for the inspection of a record or paper in a case, appeal or other proceeding.
- (2) No such person shall be entitled as of right to obtain an order for inspection, nor shall he in any case be allowed to inspect exhibits put in evidence except with the consent in writing of the person by whom they were produced or his successor-in interest. Such consent shall invariably be filed along with the application for inspection.

9. Form and fees for application –

- (1) Every application for inspection of a record shall be in writing in the prescribed Form **(F.102)** and shall set forth:-
 - (a) the name and description of the applicant and his position (if any) in the case or proceeding;
 - (b) the following particulars concerning the record of which inspection is desired :-
 - (i) Number and year of case,
 - (ii) Name of Court,
 - (iii) Title of case,
 - (iv) Date of disposal when the case has been disposed of and date of hearing when the case is pending.
- (2) The fees for the inspection of records shall be paid in court fee labels in accordance with the following scale, namely:-
 - (i) Ordinary Rs. 1/-¹
 - (ii) Urgent Rs. 2.5/-²

(Subject to corresponding amendment in Court Fee Act)
- (3) Inspection of an ordinary application shall be allowed on the day following the day on which the application is made or on subsequent working day mentioned in the order. However urgent application can be allowed on the same day or on the working day following the day on which the application is made.
- (4) On presentation of such application, entries shall be made in column no.1 to 11 of **Register No.202**

10. Application for inspection of more than one record or register.-

There shall be separate application for inspection of each record or register. For the purposes of this rule, the record of an appellate court and of the lower court or courts relating to same case shall be treated as one record.

11. Inspection of records by legal practitioner's clerk –

Inspection of records by legal practitioner's clerk is not permitted. However, a registered clerk may be permitted to make full copies in pencil of any papers which are inspected by the legal practitioner. Such clerk, however, shall withdraw from the inspection room as soon as the copies are made within the time allowed.

12. Day and time for inspection of records –

¹ Substituted vide Notification No. 01/S.R.O./2020 dt. 26.02.2020 Pub. in Raj.Gaz.Ext.Pt-I (b)dt.27.02.2020
² Substituted vide Notification No. 01/S.R.O./2020 dt. 26.02.2020 Pub. in Raj.Gaz.Ext.Pt-I (b)dt.27.02.2020

Every order for inspection shall specify the day on which such inspection may be made. Such inspection shall be allowed for one day only between 2 PM to 4 PM or during morning hours from 8.30 AM to 10.30 AM.

13. Order for inspection –

Every order for the inspection of a record or paper shall be sent to the inspection clerk and will entitle the person or persons named in such order, but not any other person or persons, to inspect the record or paper specified in the order on the date mentioned in the order but on no other date. If no inspection is made on the date fixed, the application shall be filed with the record and shall not entitle the applicant to inspect on any other date:

Provided that if the inspection could not be made for reasons not arising from the fault of the inspecting party, a fresh time will be fixed for inspection on the same fee.

14. Duty of Record-keeper –

The Record-keeper of the Officer-in-charge of the record shall, on or before the day mentioned in the order required by rule 12, deliver to the inspection clerk the record or paper mentioned in the order, and shall receive an acknowledgment from the inspection clerk.

15. Duty of inspection clerk –

The inspection clerk shall, on the day of the inspection and immediately after the inspection has begun, make on the order, a memorandum showing the date on which the order has been complied with, and shall, on the same day, return it to the official from whom he received every record or paper and every order. Such official shall forthwith file every order which has been returned to him and shall not again issue for inspection on an order so filed any record or paper.

The inspection shall be made in the presence of the inspection clerk, who before returning the file, shall examine the record and satisfy himself that all papers in the records are as they were before Inspection.

16. Inspection Register –

The inspection clerk shall keep an inspection register in the prescribed Form (**Register No.202**). Entries shall be made after inspection of record in relevant columns of **Register No.202**.

17. Use of pen, ink and electronic device during inspection prohibited –

- (1) No person inspecting a record shall be allowed to bring into the room, in which the inspection is made, any pen, ink, or electronic device.
- (2) No persons inspecting the record shall be allowed to use any pen, ink or electronic device.
- (3) No person inspecting the record shall be allowed to make any mark upon, or in any respect to mutilate, any record or paper which is being inspected.
- (4) No person inspecting the record shall be allowed to take photograph of the record or scan of the record by any electronic device.

However, he may, if he so desires, make full copies in pencil of any paper that he is inspecting within the time allowed.

ORDER 3

PROCESSES

1. Contents of process or order-

- (a) In every process or order issued or made by the Presiding Officer of a Court, the name and designation issuing or making it, together with the name of the district and of the Court, shall be clearly and legibly set out or printed. Every officer signing a process or order shall sign his name legibly and in full. The practice of signing initials only or affixing stamp is strictly forbidden.
- (b) Every person for whom a process is issued shall be described therein in such a manner as will correctly identify him. His full and correct name, address, parentage and such further description as will serve to identify him must be mentioned. In case of service and execution of a process to be effected in large towns and cities, the name of the street, ward number of the Municipality, PIN Code and the number of the house, if known, should be given.

Illustration

Name of the Court
Place/ District/ PIN Code

Name of Presiding Officer :
Designation of the Presiding Officer

Name of the Person to whom process issued : _____
Father's/ Mother's/ Husband's Name : _____
Phone/ email ID, if any : _____
Age : _____
Caste : _____
Address : _____
House No. : _____
Ward No. : _____
Street/ Locality : _____
Village/ Town/ City : _____
Post Office : _____
PIN Code : _____
District : _____
State : _____

Signature in Full with Date
Name of the Presiding Officer
Designation,
or
By Order
Signature in Full with Date
Designation of Authorised Signatory

Where such description does not appear in the application of the person moving the court to issue the process or in the record, the orders of the court shall forthwith be taken by the issuing officer.

2. Processes for service to foreign countries—

Legal process for execution in a foreign or common wealth country shall be sent to Ministry of External Affairs/ Ministry of Home Affairs, Government of India, as the case may be, through the High Court.

Such process should be send as per the guidelines issued by Government of India time to time (**Appendix-A**).

3. Directions for processes to be sent to foreign courts—

The following directions shall be carefully complied with when any processes are to be issued for service in foreign countries (i.e. a State or country outside India):—

- (a) They shall be drawn up and printed on stout durable papers of full scape size in English.
- (b) Such legal process, shall not be signed by the Munsarim but by the Presiding Officer of the court issuing them, and he shall satisfy himself that the documents are correctly addressed and properly sealed. This matter shall not be left to the parties and the Munsarims.
- (c) The names and addresses of the individuals upon whom a process is to be served shall also be stated in the forwarding letter accompanying the process.
- (d) All documents not in English shall be accompanied by their translation in English and in addition where the person upon whom the service is desired is not a British subject, by a translation into the language of the country concerned.
- (e) In such cases the court shall fix the next date for hearing of the matter, atleast seven months ahead so as to allow sufficient time for execution and return of the process to India before the next date of hearing of the matter. The returnable date to be specified in the process shall in no case be less than six months, after the date on which the processes are finally despatched to the High Court.

ORDER 4

LEGAL AID TO PERSONS AT STATE EXPENSE

1. Legal Aid-

- (1) Where the accused in a trial is not represented by a pleader, the matter will be referred to the concerned Legal Aid Service Authority for taking prompt decision to provide legal aid to such accused at its level in accordance with the provisions of Legal Service Authority Act, 1987 and Rules made there under from time to time.
- (2) Legal Aid shall also be provided to every person who is eligible to receive free legal aid as per the provisions of the Legal Service Authority Act, 1987 and Rules made there-under from time to time.

2. Grant of copies and inspection free of charge under legal aid—

- (1) The person who has been provided with legal aid or his counsel shall be entitled to get copies of the following documents free of costs:—
 - (i) (a) Copies of documents filed with the plaint if such person is a defendant;
 - (b) Certified copies of pleading, statements, documents, judgment, orders, etc., may also be supplied free of cost on priority basis to the Legal Aid committees of the Supreme Court, High Court or Districts Courts, as the case may be, if any application is received in this behalf.
 - (ii) If such person is a plaintiff, copies of documents, which are the basis of written statement; and
 - (iii) The copies of other documents considered to be material or relevant by the court.
- (2) The person who has been provided with legal aid or his counsel, shall be entitled to inspect record of the case free of charge in accordance with the rules relating to the inspection of records.

ORDER 5

OATH AND AFFIRMATION

1. The oath shall be administered in the language of the Court -

The provisions of the Oaths Act, 1960 (Central Act No. 44 of 1969) shall be followed in administering oaths and affirmations. The forms of oaths and affirmations given in the Schedule to said Act are reproduced below:-

FORM NO. 1 (Witnesses)

I..... S/D/o do swear in the name of God/ solemnly affirm that what I shall state shall be the truth, the whole truth and nothing but the truth.....

FORM NO. 3 (Interpreters)

I..... S/D/o do swear in the name of God/Solemnly affirm that I will well and truly interpret and explain all questions put to and evidence given by witnesses and translate correctly and accurately all documents given to me for translation.

FORM NO. 4 (Affidavits)

I..... S/D/o do swear in the name of God/Solemnly affirm that this is my name and signature (or mark) and that the contents of this my affidavit are true.

ORDER 6

COPIES AND COPYING DEPARTMENT

1. Order necessary for copy –

- (1) Except as may be otherwise directed by any law for the time being in force or by any rule having the force of law, a copy shall not be made of any record or part thereof save under an order of the Court upon an application made as hereinafter mentioned.
- (2) In the case of official correspondence or reports an order for a copy shall not be made, until permission has been obtained from the highest authority concerned with such correspondence or reports.
- (3) Copy means -Photostat/scan/ computer generated copy of any paper of the judicial record.

2. Application for Copy-

- (1) Every application for a copy shall be on the prescribed Form **(F.103)** and shall set forth:—
 - (a) the name and description of the applicant, and his position (if any) in the case or proceeding, of which the copy is asked for;
 - (b) the description of the document (which includes judgment, decree, order, pleading, paper or exhibits) of which a copy is required;
 - (c) the following particulars concerning the record from which the copy is sought:—
 - (1) Number and year of case
 - (2) Name of Court
 - (3) Title of Case; and
 - (d) Date of disposal if the case has been disposed of and the date of hearing, if the case is pending
 - (e) whether or not the application is urgent / immediate
- (2) Such application can also be sent by post. In every such application the applicant shall give his full address, and shall state whether he will attend in person to receive the copy or desires it to be sent by post. In the latter cases, the applicant shall also send a duly stamped addressed envelope along-with a duly stamped and addressed post card to enable him to be informed of the extra charges to be paid on his application for copy.
- (3) If the extra charges, if any, are not paid within 15 days from the date of issue of notice **(F.104)**, the application for copy shall be rejected and the addressed envelope shall be used for informing the applicant of the order of rejection of his application.

3. Procedure on order for copy –

As soon as an application for copy is received, necessary entries shall be made by the head copyist in the register of copies **(Register No.203)**; and the order with the application, if any, shall

be forwarded forthwith by the Officer-in-charge of the copying department to the Officer-in-charge of the record, who shall without delay send such order, application and the record to the head copyist, and shall take from the head copyist, in a book in the prescribed Form **(Register No.203)** to be kept for the purpose, a receipt containing a note of the date and hour when such record was delivered to him and the head copyist shall enter in his register of copies the date and hour on which he received the aforesaid paper on record.

As soon as a copy is made, the head copyist shall forthwith return the record, together with the order and the application, to the official from whom he received them, and such official shall forthwith place such order and application in Part B of the record.

The head copyist shall at the end of each working day, deposit all documents under copying in a locked box to be kept for that purpose.

4. Date of delivery of a copy –

A definite date not ordinarily exceeding seven days ahead shall be fixed for the delivery of the copy and intimated to the applicant. The copy, as far as possible, shall be delivered on the date so fixed. Status of application/ copy(ies) be published on the website of the court concerned.

5. Preparation of Copies –

- (1) The scale of charges for copies of any judgment, decree, document, book register, map, plan, photograph or any other paper shall be ascertained time to time by the concerned District & Session Judge on actual basis. However, persons/ authorities mentioned in the **Appendix-B** are entitled to copy(ies) at the cost of State.
- (2) The charges shall be payable in cash or any other mode as may be determined by the District & Sessions Judge.
- (3) As soon as an application for a copy is made, the Head Copyist shall register the same in a Register **(Register No.203)** and send for the record. He shall then prepare an estimate of the charges and ask the person applying for copy to pay the charges accordingly.
- (4) When copying charges are paid in cash, the Head Copyist shall maintain separate cash book for copies **(Register No.204)** in which he shall enter the cash deposited and issue a receipt to the depositor **(F.105)**. The document of which the copy is required will then be sent to the person/ firm or company at the Headquarters of the Court approved by the District Judge for preparing copies with a responsible clerk working as a copyist in the Copying Section together with the amount of charges received in cash from the applicant. The copyist shall get the copy prepared in his presence, pay the amount of charges and obtain receipt thereof. Necessary entry of payment of the charges will be made in the Cash Book on the basis of that receipt.
- (5) The copy will be certified to be the copy by the Head Copyist and shall commence with a heading in the following form- Certified copy of (description of documents copied) in (title of case) suit/appeal No. (number) of (year) in the court of (name of the court) at (place) decided/pending on (date). A certified copy shall bear the following endorsements:—

- (a) Number of the application in the register and the year;
 - (b) Date of presentation of the application;
 - (c) Number of pages;
 - (d) Amount of copying fee paid in copying stamp and/or in cash;
 - (e) Name of the copier;
 - (f) Date fixed for issue of copy;
 - (g) Date on which copy was ready;
 - (h) Date of issue of notice to applicant (if issued)
 - (i) Date of delivery/posting.
- (6) Computer generated certified copies to be issued by the court concerned itself.-
- (a) Wherever, it is feasible to generate copy(ies) by the computer e.g. in case of statement of witnesses, orders, judgments etc. the party desirous of obtaining copy(ies) may submit application before Senior Munsarim/ Reader of the Court concerned also in the same manner, as if, it is being presented before Head Copyist of the Copying Section.
 - (b) The Senior Munsarim/ Reader will place such application before Presiding Officer for orders and where, the supply of copy is ordered by the Presiding Officer, he will inform applicant about total number of pages.
 - (c) The applicant, except where he is entitled for free of cost copies, will submit copying stamp at the rate of Rs.1.5/- per page³, for each additional copy Rs.1/- per page⁴. The Reader/ Senior Munsarim will affix those stamps on each page of the document looking to the availability/ suitability of the space and will make an endorsement of it being true computer generated copy of the original and will also make other endorsement as required in case of supply of certified copy by the Copying Section. The Presiding Officer will countersign it.
 - (d) At the end of each working day, Senior Munsarim/ Reader will transmit the applications received and disposed of on that day to Head Copyist who will make its entry in the regular register of copy.
- (7) In case any difficulty arises in complying with an order for a copy, the application and order together with an office report shall be forthwith laid before the Presiding Officer for orders

6. Who can obtain copies in criminal proceeding -

- (1) Parties to a criminal proceeding are entitled to obtain copies of any record or any portion of the record of trial or enquiry including such police papers as may be made use of as evidence at the trial or enquiry and final reports submitted by police under section 173 of the Code.
- (2) Subject to the provisions of sub-rule (3) a stranger to a case, may after final order, obtain copies of any order, proceeding or paper on the record and may for sufficient reason shown to the satisfaction of the Presiding Officer of the Court, obtain at any time before final order, copies of any order, proceeding or papers on the record.

³ Substituted vide Notification No. 01/S.R.O./2020 dt. 26.02.2020 Pub. in Raj.Gaz.Ext.Pt-I (b)dt.27.02.2020

⁴ Substituted vide Notification No. 01/S.R.O./2020 dt. 26.02.2020 Pub. in Raj.Gaz.Ext.Pt-I (b)dt.27.02.2020

- (3) As a general rule, copies of exhibits in a criminal proceeding shall not be granted to persons who are strangers to it.
- (4) Every application for a copy shall be presented to the Officer-in-charge of the copying department for the Court or record-room who is for the time being in charge of the record. Such officer shall then and there enter in clear bold words and figures on the left hand centre portion of each paper (obverse side) the date of the application and the serial number. A rubber stamp may be used for this purpose, the Official-in-charge merely initialing the entry.

When the application is for a copy to which by any law or by any rule having the force of law the applicant is entitled and is in other respects in order; such officer shall make an order for the copy to be granted; in every other case where such officer is not the Presiding Officer of a Court, he shall lay the application for orders before the Sessions Judge or the senior-most Judicial Officer at the headquarter or the District Magistrate or the officer specially appointed in this behalf by the Sessions Judge or the District Magistrate, as the case may be.

Except for special reasons, to be noted on the order made upon the application, a copy shall not be granted;

- (i) of official correspondence or reports
- (ii) of a document which is itself a copy.

A copy of copy may also be granted for the purpose of filing any claim before Motor Accident Claim Tribunal. A copy of a copy may only be granted, if the original document is not traceable, or is not accessible to the applicant for the purpose of obtaining a copy. Each page of such copy shall bear, in red ink, the remark that it is a copy of a copy.

- (5) For the purpose of this rules, the in-charge of the copying department shall be deemed to be :—
 - (a) for a Court of Sessions the Munsarim, or the Reader where there is no Senior Munsarim,
 - (b) for any other Court of the Executive Magistrate at head quarters or the District Magistrate's record-room, the Officer- in- charge of the District Magistrate's record-room, or such other person as the District Magistrate may appoint, from time to time, by written order,
 - (c) for any other Court of Judicial Magistrate and Chief Judicial Magistrate, the Presiding Officer.

7. Who can obtain copies in civil proceedings –

- (1) Any party to a suit, appeal or proceeding may at any time obtain, upon an application, an order for a copy or copies of the record in such suit, appeal or proceeding, or of any decree, order, judgment, pleading, paper, exhibit or document in such record.
- (2) A stranger to a suit, appeal, or other proceeding may, after final decree or final order, obtain upon an application an order for a copy or copies of any decree, order, judgment, pleading paper or document in the record, other than an exhibit and may, for sufficient reason shown to the satisfaction of the judge obtain upon application at any time before final decree or final order, an order from the Presiding Officer for a copy or copies of any decree order, judgment, pleading, paper or other document in record other than an exhibit.

- (3) No order for a copy of an exhibit shall be made on the application of stranger to the suit, appeal or proceeding in which such exhibit was produced unless along with the application is filed a properly authenticated consent in writing of the person who produced such exhibit for granting of an order for the copy.
- (4) No copy shall be granted of a document which itself is a copy. However, a copy of a copy may only be granted if the original document is not traceable, or is not accessible to the applicant for the purpose of obtaining a copy, each page of such copy shall bear in red ink, the remarks that it is a copy of a copy.

8. Government and certain courts—

Notwithstanding anything contained in these rules, a Presiding Officer may, upon application by or on behalf of the head of any department of the Government of India or any High Court in India, any authority in India, exercising jurisdiction similar to a High Court any court subordinate to the Rajasthan High Court, any Principal Court in any foreign country in his discretion order a copy or copies to be made and delivered or any record; and such copy or copies may be made free of charge (**Appendix-B**), unless they are required for the use of a litigant other than the Government.

9. When copy cannot be supplied—

In case any difficulty arises in complying with an order for a copy, the order and application, if any, shall be laid forthwith before the Court for orders with a report by the head copyist. If a copy cannot be given, the Court shall direct that the payment made, be returned. If the order cannot be completed or complied with by reason of the record being in the Appellate Court or in any other Court, it shall be sent to the Court concerned for completion or compliance. In such case, the applicant shall be furnished with such copies which may have been prepared, and shall be informed by which Court the remaining copies required will be supplied.

10. Correction of defective application –

- (1) If an application for copy is found defective or does not contain sufficient information to enable the record to be traced or the copying fee filed is insufficient, information thereof shall be published on the website of the concerned court and shall also be pasted on the notice board, to remove the defect within ten days.
- (2) But, if, the postage stamps have not been so pre-paid, the nature or extent of deficiency of information or copying charges shall be recorded in red ink and pasted on the notice board as well as on the website of the court. On the expiry of ten days from the date of publication of such information, the application shall, if the defect is not removed, be rejected for default.

11. Application by prisoner-

An application for a copy by a prisoner may be made through the Superintendent of the Jail or through para legal volunteer working in such jail or through someone acting on the prisoner's behalf; in the latter case the Officer-in- charge of the copying department shall, if

satisfied that the application is made on behalf of the prisoner, order the copy to be made and sent to the jail, unless for good reasons shown, he directs it to be made over to the person through whom the application is made.

12. Copy of judgment to be sent to the Jail Superintendent –

On the conviction of any prisoner, a copy of the judgment should on requisition be sent to the Superintendent of Jail to enable him to determine whether the prisoner should be classed as 'Star' or "Ordinary".

13. Counsel's Clerk may apply for copy—

An application for copy, duly signed by a Counsel, may be presented by his registered clerk and the copy may be delivered to such clerk.

14. Disposal of a copy, when ready –

- (1) When a copy is ready, and the applicant or his authorized agent is present, the copy shall be given to him. If the applicant or his authorized agent is not present, information thereof shall be published on the website of the court. A copy of such notice shall also be pasted on conspicuous part of the court. If applicant appears within one month from the date of such publication of notice, a copy shall be delivered to him.
- (2) If the applicant does not appear within this period, copy shall be destroyed under the order of the Presiding Officer, an entry to that effect shall be made in the remarks column in the register of copying applications (**Register No.203**). Information shall also be published on the website of the court as well as on the notice board.
- (3) A register of applications for copies of record disposed of shall be maintained in the prescribed form (**Register No.203**). All copies issued and all applications disposed of without issue of copies shall be entered in this register.

15. Priority of orders –

- (1) Save as provided in these Rules, orders made on urgent applications shall have priority over all orders made on ordinary applications; orders on urgent application and orders on ordinary applications shall have strict priority amongst themselves according to the date and serial number of each order.
- (2) A copy for which an order has been made on an urgent application shall be delivered, as a rule, not later than the working day next after the day on which the order was made.
- (3) A copy for which an order has been made on an ordinary application shall be delivered as a rule, not later than a week after the day on which the order was made.

ORDER 7

INSPECTION OF COURTS AND OFFICES

1. Inspection of Sub-ordinate Courts by District & Sessions Judges—

(1) Every District Judge shall inspect his Subordinate Courts and offices and also his own office at least once a year. The inspection shall be detailed and shall amongst other matters, be directed to the following:-

- (a) Proper maintenance of all important registers.
- (b) Proper arrangements of records.
- (c) Punctual submission of periodical statements and returns.
- (d) Examination of records of pending old cases.
- (e) Care taken in issue of processes to the accused.
- (f) Undue retention of witnesses.
- (g) Adequacy of examination of accused.
- (h) Framing of charges.
- (i) Delay in delivery of judgments.
- (j) Quick disposal of cases.
- (k) Compliance of the provisions of the Probation of Offenders Act and Rules.
- (l) Observance of rules and procedures.
- (m) Due execution of sentences.
- (n) Compliance of other matters assigned by the Sessions Judge.

However, if court of any Judicial Magistrate has already been inspected by the Chief Judicial Magistrate under general or special directions of the Sessions Judge, before inspection of Sessions Judge, in that case, inspection shall be confined to other matters than the aforesaid.

(2) In case of inspection of court of Additional Sessions Judge, inspection shall be directed to the following only: -

- (a) Proper maintenance of all important registers.
- (b) Proper arrangements of records.
- (c) Punctual submission of periodical statements and returns.
- (d) Compliance of the provisions of the Probation of Offenders Act and Rules.

Report of such inspection shall be sent to the High Court in the format given in **Appendix-C**. The Court looks to the District Judges for correct information about subordinate Judicial officers 'ability' control over judicial work, and control over their officers.

2. Inspection by Chief Judicial Magistrate—

(1) Chief Judicial Magistrate shall inspect the court of Judicial Magistrate subordinate to him under general or special directions of the District & Sessions Judge. The Inspection shall be detailed and shall amongst other matters, be directed to the following:-

- (a) Proper maintenance of all important registers.
- (b) Proper arrangements of records.
- (c) Punctual submission of periodical statements and returns.
- (d) Examination of records of pending old cases.
- (e) Care taken in issue of processes to the accused.
- (f) Undue retention of witnesses.
- (g) Adequacy of examination of accused.
- (h) Framing of charges.
- (i) Delay in delivery of judgments.
- (j) Quick disposal of cases.
- (k) Compliance of the provisions of the Probation of Offenders

Act and Rules.

- (l) Observance of rules and procedures.
- (m) Due execution of sentences and any other matters as directed by the Sessions Judge.

The Chief Judicial Magistrate shall submit their notes of inspection of the Court of Judicial Magistrate to the Sessions Judge concerned who shall forward the same to the High Court with his comments.

- (2) In case of inspection of court of Additional Chief Judicial Magistrate, inspection shall be directed to the following only: -
 - (a) Proper maintenance of all important registers.
 - (b) Proper arrangements of records.
 - (c) Punctual submission of periodical statements and returns.
 - (d) Compliance of the provisions of the Probation of Offenders Act and Rules.

3. Inspection by Presiding Officers of their own offices –

Every Presiding Officer shall make thorough inspection of his office once a year. Report of such inspection shall be sent to the District & Sessions Judge by 15th February each year. The District & Sessions Judge may pass such orders on these inspection notes as considered. The Sessions Judge shall note in the annual administration report whether all the Presiding Officers have inspected their respective office(s) or not. Where an office has not been inspected, the name of the officer who has failed to make the inspection should be reported to the High Court along-with explanation of the concerned officer.

4. District & Sessions Judge's authorization to Chief Judicial Magistrate or Officer-in-charge for inspection of different Sections–

The District & Sessions Judge may authorize the Chief Judicial Magistrate at the headquarters or the officer-in-charge of the different sections to inspect the Nazarat, Record room, Copying Department, etc., once a year so far as they relate to criminal side. The Chief Judicial Magistrate posted at station other than the headquarter of the District & Sessions Judge may likewise be authorised to inspect the aforesaid section of that station. The Chief Judicial Magistrate or the Officer-in-charge, as the case may be, shall forward the notes of inspection prepared by him to the District & Sessions Judge who would pass necessary orders thereon.

5. Inspection by the Reader or Senior Munsarim –

The Senior Munsarim or the Reader, as the case may be, of every Court shall inspect half yearly the work of each member of the staff of section and submit his inspection report to the Presiding Officer who shall pass necessary orders thereon.

6. Inspection and compliance registers –

Every Court shall maintain an inspection and compliance register (**Register No.205**). The Presiding Officer shall take particular care to see that all the defects pointed out in the inspection report are noted in the Register and they are promptly rectified. The compliance report shall be noted in the Register.

7. Checking of compliance of previous inspection report –

It shall be the duty of the inspecting officer to check the inspection and compliance register to find out if all the defects noticed during previous inspection have been rectified and compliance noted therein.

ORDER 8

STATIONERY

Stationery

Stationery and other items of use shall be arranged by the Presiding Officer within the budget limit at his disposal. Purchase shall be made as per the provision of the RPPT as amended time to time.

A stock book of stationery & other articles shall also be maintained in the prescribed form (Register No.206).

ORDER 9

CORRESPONDENCE

1. Classification of correspondence –

The departments, into which the correspondence of Courts should be classified, are as follows:—

1. Establishment
2. Legal Practitioners
3. Processes
4. Bills, Budgets and Accounts
5. Building and furniture
6. Books, maps, forms and stationery
7. Inspection of Courts
8. Rules and Practice
9. Legal Aid and ADR
10. D.O. and Confidential letters
11. Electronic Devices
12. Miscellaneous

No change in this classification shall be made without the sanction of the High Court:

2. Arrangement of files—

The correspondence under each head shall be arranged by files; each file shall consist of all the letters received and issued in the courts of a consecutive correspondence upon one subject. The letters in each file shall be arranged in chronological order; the first letter received or issued being at the bottom of the file, and the last letter received or issued being at the top.

3. Monthly submission of the General Register to the Presiding Officer—

The General Register of correspondence files, shall be put up at the end of every month to the Presiding Officer in order that he may see that unnecessary delay does not take place in any case.

4. Register of letters received –

Every letter received shall be docketed and entered in the register of letters received in the prescribed Form (**Register No.207**). The date of receipt of the letter and its register number shall be entered on the docket in red ink.

5. Register of letters issued –

Every letter issued shall be fairly copied the original draft and the fair copy shall be numbered with the annual serial number, one set of such serial number running through all the Court correspondence for the calendar year; the letter shall then be entered in the register of letters issued in the prescribed Form (**Register No.208**) and the draft letter shall be docketed, the date of issue and annual serial number being entered on the docket.

Note - Docketing of a letter means entering of the letter in office notes portion of the file.

6. Marking of serial number of letter –

The serial number of the letter in its file shall also be marked in red ink on the docket of each letter, i.e. the first letter received or issued on a file shall be marked Serial Number 2 and so on.

When a letter is received or issued if it pertains to a previously existing file, the file shall be got out, and the next consecutive serial number of the series of that shall be assigned to the letter.

7. Office Notes –

Office notes relating to a correspondence shall be maintained in one continuous series and filed together and shall not be interspersed between letters.

8. Connected files –

If a letter refers to, or be connected with, another file under the same or another head, that file shall be linked with the file to which the letter pertains, the files being separately tied up, but connected by a piece of tape. The linked files shall remain together until the file containing the reference or connection has been finally disposed of, when they shall be relegated to their proper places, a note being made on each that it was linked with the other or receipt of the letter.

9. Division of files into two classes –

Files shall be divided into two classes, namely :—

- (i) Closed files, that is to say, files in which further correspondence is not expected; and
- (ii) Pending files, that is to say, files in which further correspondence may be expected.

10. Correspondence press –

A separate press, divided into twelve or more compartments, shall be reserved for closed files, and over each compartment, the head to which it is appropriated, shall be noted. This Press shall be known as the 'Correspondence Press'.

11. Closed files –

The closed files pertaining to each head shall be tied together between stiff boards in separate annual bundles of convenient size, and on the upper board shall be written, the head and the year, or the portion of the year, to which the bundle relates.

No closed file should be out of its bundle, except when it is in actual use.

12. Reopening of closed files.—

If correspondence relating to a closed file be re-opened, the file shall be withdrawn from the correspondence press and, placed among pending files, with which it shall be kept till the renewed correspondence terminates. It shall then be returned to the correspondence press and placed in the bundle for the year, on the portion of the year in which the renewed correspondence terminated.

When a closed files thus withdrawn and returned, a note of the, date of withdrawal at the time of file is withdrawn and reference to the bundle in which the file has been placed at the time, the file is returned, shall be made in column of remarks against the former entry in the General Register of correspondence files and the files closed (**Register No.209**). A slip of paper with a similar note recorded on it shall be placed in the bundle from which the file was withdrawn.

13. Pending Files.—

Pending files shall be in two packets one of (a) files containing references that have been answered or require no answer and the other of (b) Files containing references that are unanswered.

As soon as a pending file is closed, the entries in the General Register of correspondence files relating to it (**Register No.209**) shall be completed and it shall be removed from the packet of pending files and placed in its appropriate compartment in the correspondence press.

14. File Index –

In the file index a few pages shall be allotted to each head of correspondence; and to facilitate reference, the right hand margin of the file index shall be so out and numbered as to show where the entries under each head of correspondence are to be found.

15. General letters and circulars –

(a) General letters and circulars fall under three categories :—

- (i) General letters and circulars containing general instructions or orders, but only calling for information or explanation in regard to particular matter (e.g., questions in Parliament or Legislative Assembly or Remarks in Audit Inspection Report).
 - (ii) General letters and circulars containing general instructions or orders, but of only Ephemeral Value, (e.g. declaring a day as a special holiday, or saying that the Registrar would be away during a certain period and D.O. letters during this period should be addressed to the Deputy Registrar, or asking that monthly establishment bills for a certain month should be submitted before a certain date).
 - (iii) General letters and circulars containing general instruction or orders of permanent or lasting importance.
- (b) The general letters and circulars falling under the first category shall be treated as ordinary correspondence.
- (c) The general letters and circulars falling under the second categories shall be kept in one consolidated file without reference to the subject, to which the letter or circular relates. The file shall be styled Ephemeral circulars and general letters.
- (d) The general letters or circulars falling under the third category shall be entered in a register called the Register of General Letters and Circulars (**Register No.210**). They shall be, however, filed in separate file books as follows :-
1. General letters of the High Court (Civil).
 2. General letters of the High Court (Criminal).
 3. Circulars of the Government.
 4. Circulars of the Board of Revenue.

5. Circulars of the Accountant-General.
6. Circulars of the Inspector-General of Registration and Stamps.
7. Circulars of the Director General of Police.
8. Other Circulars.

To each file book shall be prefixed an index in which the number, date and subject of each circular shall be entered at the time the circular is filed. A reference to the entry in the Index shall be noted in the Register of General Letters and Circulars.

16. Supply of copies of General Circulars and Letters –

The Sessions Judge or the District Magistrate, as the case may be, shall supply or arrange to supply copies of general letters and circular-letters to all the courts working under them in the District.

When any circular relates to the duties of any official or specially affects the work of any official, an additional copy shall be furnished to such official, who shall paste it into a file book, and shall prefix to the file book an index containing the particulars mentioned in Rule 11.

17. Correspondence originating in a circular –

If a circular gives rise to correspondence, the correspondence shall be kept in a separate file, a note being made on the first letter in the file that the circular referred to is passed into its appropriate file book, and a note bearing reference to the correspondence being recorded, on the circular itself.

An extra copy or extract copy of the circular, as the case requires, may be placed on the correspondence file.

18. Return press for periodical returns –

A separate press, divided into as many compartments of varying sizes as there are periodical returns; shall be reserved for such return and over each compartment, the description of the return to which it is appropriated, shall be noted. This press shall be known as the 'Return Press'.

Correspondence relating to periodical returns shall like correspondence connected with circulars, be kept in separate files, and, when closed, shall be placed in the correspondence press, a note bearing reference to the correspondence being recorded on the particular return.

19. Yearly Planner-

In every office a yearly planner shall be maintained stating therein lists of the returns and reports, their due dates, the office to which they are to be sent as per **Appendix-J**. A copy thereof shall be kept by Presiding Officer and every other Duty Holder.

20. Hand Book-

In every office, a hand book shall be maintained by every official, which shall contain the list of registers and returns to be maintained and other work to be undertaken by the official and procedure thereof in brief.

21. Adverse entry in the character roll—

Every entry in the character roll which may adversely affect the promotion of the official concerned must be communicated to him. Copies of the entries in such rolls will not be given.

22. Issue of commendatory parwanas or Certificates of good character—

The practice of issuing commendatory Parwanas or separate certificates of good character in the case of officials is strictly prohibited. Subordinates may, however, be granted on their retirement such special certificate of good work and conduct as may deem fit.

23. Correspondence with High Court—

In all correspondence with the Registrar General of the High Court following instructions shall be observed:—

- (1) As a rule, the Registrar General shall be addressed by letter and not by docket or endorsement.
- (2) A list of the enclosures accompanying a letter shall be made at the foot of it. Every judicial file shall be reckoned as a separate enclosure.
- (3) Where a demi-official letter is addressed to the Registrar General, only one subject should be dealt within one letter, a second subject should be made the subject of a second letter.

24. Correspondence relating to cases judicial or non judicial—

Correspondence relating to cases, judicial or non-judicial, shall be dealt with according to the following rules :—

- (1) Letters forming such correspondence shall be filed with the case to which they relate;
- (2) To indicate that the Presiding Officer considers no further action necessary in respect of any correspondence, he shall write the word 'File', with his initial on the last letter. The Munsarim or the Reader of the Court concerned, as the case may be, must then, after examining the previous papers, mark the last letter "concluded and filed" before the correspondence is considered with the case to record room.
- (3) Every letter received should bear an order recorded on it by the Presiding Officer, or the word "seen" with initials, as an indication that he has seen it.

Judicial officer in corresponding with the High Court shall address their communications through the District Judge to the Registrar General with the exception of notices and summonses issued by the High Court and served by Subordinate Courts, acknowledgment of records, and all correspondence relating to the case work of the High Court which shall be addressed to the Deputy Registrar (Judicial) directly.

25. Confidential letter—

Confidential covers shall be addressed by name to the person who should open them. When a cover is so addressed, it should be opened only by the person whose name it bears (or, in his absence by a responsible officer to be specified by him).

26. Weeding of Correspondence—

- (1) The papers of closed, files in the office of the District Court and the Courts subordinate to it shall be weeded as follows:—
Reminders and office memoranda which are unnecessary for the understanding of the file and are not likely to serve any immediate separate purpose, shall be destroyed when the file is closed.
- (2) Correspondence on or relating to the following subjects shall be retained for a period of one year from 1st January of the year succeeding that in which the file is closed—
 - (i) Medical examination of ministerial officers.
 - (ii) Leave, transfer and certificate of transfer of charge of ministerial officers (These are to be retained for one year after entry in the service book).
 - (iii) Verification of securities of public accountants and officials (These are to be retained for one year after the next verification).
 - (iv) Contingent bills.
 - (v) Change of office hours.
- (3) The following correspondence or correspondence on or relating to the following subject shall be retained for a period of two years from 1st January of the year succeeding that in which the file is closed :—
 - (i) Explanation of delay and letters calling for them.
 - (ii) Covering dockets and letters on mere matters of routine such as those returning enclosures, etc., including those sent to and received from the High Court concerning the grant of certificates to Legal practitioners under Act XVIII of 1879.
 - (iii) Explanation called for by the High court on quarterly and annual statements.
 - (iv) Periodical returns and reports.
 - (v) Service and execution of processes of other courts.
 - (vi) Questions of practice and procedure, which have been subsequently settled by published rules of the High Court.
 - (vii) Assessors.
 - (viii) Impounding of documents and also relating to fines and penalties.
 - (ix) Printing and adjustment of charges.
 - (x) Accountant General's objections on the establishment return.
 - (xi) Transmission of records.
 - (xii) Entertainment of temporary extra copyists and weeders on temporary record-room establishment.
 - (xiii) Civil and Criminal annual reports.
 - (xiv) The preparation of list of legal practitioners willing to execute commissions.
 - (xv) The judicial calendar and holidays not specified therein.
 - (xvi) The supply of repayment order books.
 - (xvii) Process serving establishment.
 - (xviii) Correction of deposit accounts and lapsed deposit accounts.
 - (xix) Cases transferred by order of the High Court.
 - (xx) Reconciling of discrepancies in sale commission free return.
 - (xxi) Plus and minus memorandum of civil court deposits and objection of Accountant General regarding deposit accounts.
 - (xxii) Appointment of, retirement of, or grant of pensions to, officials who are dead.

This rule refers only to correspondence and not to periodical returns or reports themselves.

- (4) The following correspondence or correspondence on or relating to the following subjects shall be retained for a period of three years from 1st January of the year succeeding that in which the file is closed:—
- (i) Appointment.— In the case of temporary establishment. (The period of retention of the correspondence relating to appointment in the case of permanent establishment is thirty five years). Care shall be taken to return all original testimonials to the applicant.
 - (ii) Transfer, posting, charge, leave, drawing fresh increment of pay and last pay certificates of gazetted officers.
 - (iii) Gratuities to ministerial officers (but the sanctioning order should be retained for twenty five years from the date of retirement of the pensioner or for three years from the date of his death whichever is earlier).
 - (iv) Verification of services of ministerial officers.
- (5) The following correspondence or correspondence on or relating to the following subjects shall be retained for period of five years from 1st January of the year succeeding that in which the files is closed:—
- (i) The distribution of territorial jurisdiction of Civil Courts.
 - (ii) Budgets.
 - (iii) Applications for additional grants.
 - (iv) Powers of officers.
 - (v) The annual vacation and arrangement of work during the vacation.
 - (vi) Payment of rent of buildings secured for court houses.
 - (vii) Travelling allowance bill books.
- (6) The correspondence on or relating to salary bills of gazetted officers should be retained for six years from 1st January of the year succeeding that is which the file is closed.
- (7) The following papers shall be retained for ten years, computed for 1st January of the year succeeding that in which the correspondence relating to them was weeded:—
- (i) Estimate of Budgets.
 - (ii) Annual reports (Civil and Criminal) and returns.
 - (iii) Inspection notes, the High Court's order thereof on, and correspondence relating thereto.
- (8) Correspondence on the following subjects shall be retained until the Presiding Officer orders their destructions:—
- (i) Correspondence relating to pensions.
 - (ii) Complaints against officials and correspondence relating thereto, if containing papers likely to be required by the Accountant General when application is made for pension or gratuity.
 - (iii) Correspondence relating to books, maps, furniture and repairs of Court Houses.
 - (iv) The Presiding Officer shall ordinarily order the destruction of records (i) and (ii) when there remains no possibility of the papers being required to answer a reference of the Accountant General. Ordinarily, in the case of (i) the sanctioning order shall be retained for twenty five years from the date of retirement of the pensioner or for three years from the date of his death whichever is earlier and the other correspondence should be destroyed after three years. The correspondence relating to (ii) shall ordinarily be destroyed after the official has died or retired or has been removed.

(v) Such correspondence shall be laid before the Presiding Officer every year and he shall in the case of each file pass one of the following orders to be recorded on the first sheet:—

- (a) that it be at once destroyed ;
- (b) that it be retained for a period of one, five or ten years from 1st January or the next year ;
- (c) that it be kept permanently ;
- (d) that it be retained until further order be passed.

If the order described in (b) or (c) be passed, the file shall be placed with the files which are governed by a paragraphs (2), (4), (5), (7) above, as the case may be.

(9) Correspondence on or relating to the following subjects, and any other correspondence which the Presiding Officer, shall in any particular cases so direct be retained permanently, namely:—

- (i) Assessment of taxes or rates on civil court buildings.
- (ii) Suits to which Government is party.
- (iii) Revision of establishment.
- (iv) Creation and abolition of courts.
- (v) Acquisition of land or other property by Government:

Provided that the District Judge may from time to time direct the destruction, after ten years, of any such file or part of such file the preservation of which is, in his opinion, unnecessary.

(10) The service books of officials (**Register No.211**) shall not be returned to the Government servant on retirement, resignation, discharge, termination, death or removal etc. from Government service or to their legal representatives. They shall be laid before the District Judge for orders after 3 years of the retirement, resignation, discharge, termination, removal or death of the employee and then shall either be destroyed or retained for a further period as directed. The duplicate service book may be supplied to a Government Servant on payment of Rs. 100/- only.

Character Rolls (**Register No.212**) are the property of Government and, on the retirement or dismissal etc. of an official should be kept in the office where he was last employed subject to their being laid before the District Judge after 3 years for orders as to whether they should be retained or destroyed.

(11) In the month of May each year, the head clerk or such other officer as may be appointed by the District Judge in that behalf, shall examine the files affected by the preceding paragraphs, and having selected the papers to be destroyed, shall lay them before the Munsarim. When the Munsarim has satisfied himself that the papers are liable to destruction, he shall after obtaining the orders of the Judge, cause them to be sold as waste paper in accordance with the instructions given in Rule 178, unless if he considers that any of them should be retained for a longer period, he shall submit such papers with a memorandum of the ground of his opinion for the orders of the District Judge. Notes and orders shall be treated as confidential papers.

ORDER 10

REGISTERS, RETURNS AND REPORTS

1. Memorandum books for Courts—

- (1) A memorandum book of dates for cases (**Register No.213**), shall be maintained in all Civil Courts.
- (2) The entries in this book for each day for different kinds of cases e.g. original suits, appeals, execution cases, miscellaneous cases, shall be grouped separately.
- (3) Such books shall be opened for inspection to counsels, registered clerk of counsels, and the parties between hours to be fixed by the Presiding Officer.

2. Diary for contested cases—

Presiding Officers shall keep a diary in their own handwriting in any form convenient to them in which they shall note for their use the date fixed in all contested cases with, where possible, a rough estimate of the time likely to be occupied.

3. Register of casual leave—

Every authority which grants casual leave shall cause a register of such leave to be maintained for (1) gazetted officers, (2) ministerial officials, and (3) non-ministerial staff in the prescribed form (**Register No.214**). The entries in the register shall be made and initialled by the Presiding Officer forthwith as soon as casual leave is granted. This register shall be regularly examined by inspecting officers.

4. Duty of filling up registers and inspecting of registers—

The Court official appointed for the purposes by the Presiding Officer of each Court shall daily enter the particulars of the cases in the proper registers and, at least once a month in the first week shall lay these registers before the Presiding Officer, who will inspect and sign his name and put the date under the entries of the previous month (District Judges and Civil Judges should also inspect and sign the other registers maintained in their courts).

5. Return of Property of Judicial Officer—

- (1) Every judicial officer who has been appointed in the preceding calendar year shall submit to the High Court on or before 20th January of succeeding year of their appointment, a return (**Return No.11**) of his assets and liabilities giving the full particulars regarding
 - (a) the immovable property owned by him, or inherited or acquired by him or held by him on lease or mortgage, either in his own name or in the name of any member of his family or in the name of any other person;
 - (b) shares, debentures, postal Cumulative Time Deposits and cash including bank deposits inherited by him or similarly owned, acquired or held by him;

- (c) other movable property inherited by him or similarly owned, acquired or held by him; and
- (d) debts and other liabilities incurred by him directly or indirectly

NOTE- In all returns, the values of items of movable property worth less than Rs.15,000/- in value may be added and shown as a lump sum. The value of articles of daily use such as clothes, utensils, crockery and books need not be included in such return

- (2) Every judicial officer shall submit an annual Return to the High Court on or before 20th January of each year, giving full particulars regarding the immovable property inherited by him or owned or acquired by him or held by him on lease or mortgage, either in his own name or in the name of any member of his family or in the name of any other person **(Return No.12).**

- (3) No Judicial Officer shall, except with the previous knowledge of the High Court,—

- (a) acquire any immovable property by lease, mortgage, purchase, gift or otherwise, either in his own name or in the name of any member of his family; or

- (b) dispose of by lease, mortgage, sale gift or otherwise any immovable property owned by him or held by him either in his own name or in the name of any member of his family:

Provided that the previous sanction of the High Court shall be obtained if any such transaction is with a person having official dealings with the Judicial Officer concerned.

- (4) Every Judicial Officer shall intimate the Government in respect of each transaction, whose value exceeds Rs.15,000/— within a month of the completion of such transaction.

Provided that the previous sanction of the High Court shall be obtained if any such transaction is with a person having official dealings with the Judicial Officer concerned.

- (5) The High Court or any authority empowered by it in this behalf may, at any time, by general or special order, require a Judicial Officer to furnish within a period specified in the order, a full and complete statement of such movable or immovable property held or acquired by him or on his behalf or by any member of his family as may be specified in the order and such statement shall if so required by the High Court or by the authority so empowered, include details of the means by which, or the source from which such property was acquired.

Explanation I.— For the purpose of this rule, the expression movable property includes inter alia the following property, namely :—

- (a) jewellery, insurance policies the annual premia of which exceeds a fifteen thousand rupees or one sixth of the total annual emoluments received by the Judicial Officer, whichever is less, shares, securities and debentures;

- (b) loans advanced by or to such Judicial Officer, whether secured or not;

- (c) motor cars, motor cycles, horses, or any other means of conveyance; and

- (d) refrigerators, air conditioners, cell phone, television sets and home theatre etc.

Explanation II.— For the purpose of this rule, 'lease' means, except where it is obtained from, or granted to, a foreign national or foreign mission or a foreign organisation controlled by, or associated with, foreign missions, or a person having official dealings with the Judicial Officer, a lease of immovable property from year

- to year or for any term exceeding one year or receiving a yearly rent.
- (6) No judicial officer shall except with the previous sanction of the High Court—
- (a) acquire by lease, mortgage, purchase, gift or otherwise, either in his own name or in the name of any member of his family, any immovable property situated outside India; or
 - (b) dispose of by mortgage, sale, gift or otherwise, or grant any lease in respect of, any immovable property situated outside India which was acquired or is held by him either in his own name or in the name of any member of his family; or
 - (c) enter into any transaction with any foreigner, foreign Government, foreign organisation or concern,—
 - (i) for the acquisition, by lease, mortgage, purchase, gift or otherwise, either in his own name or in the name of any member of his family, or any immovable property.
 - (ii) for the disposal of, by mortgage, sale, gift or otherwise, or the grant of any lease in respect of any, immovable property which was acquired or is held by him either in his own name or in the name of any member of his family.

6. Vindication of acts and character of members of the Service:—

No Judicial Officer shall, except with the previous sanction of the High Court have recourse to any court or to the press for the vindication of official act which has been the subject matter of adverse criticism or attack of a defamatory character.

Provided that if no such sanction is conveyed to by the High Court within 12 weeks from the date of receipt of the request, the Judicial Officer shall be free to assume that the sanction sought for has been granted to him.

Explanation.—Nothing in this rule shall be deemed to prohibit a Judicial Officer from vindicating his private character or any act done by him in his private capacity.

Provided that he shall submit a report to the High Court regarding such action.

ORDER 11

PETITION WRITERS

1. **Persons who cannot be petition writers.—**

No official of any Court and no person employed in any institution connected with the Court whether as Clerks, Copyist or Peon or in any other capacity shall write petitions.

2. **Persons who can write petitions.—**

No person shall for remuneration of any kind write petitions for presentation in any Court unless he—

- (a) holds a licence issued by the District Judge ; or
- (b) is a legal practitioner; or
- (c) is a clerk to a legal practitioner and writes the petition in the course of such employment in respect of the cases in which the legal practitioner is engaged provided the petition is signed by the latter.

3. **Number of petition writers to be fixed by the District Judge in his Judgeship.—**

The number of petition writers licensed to practise at any place in the District shall be determined time to time by the District Judge concerned.

4. **Who can grant a license to practice.—**

A license to practice shall be given only by the District Judge.

5. **Grant of a license and fee therefore.—**

A person wishing to practice as a petition writer within the precincts of the Courts must present a petition bearing a proper court-fee stamp to the District Judge.

Every petition writer licensed under these rules shall pay a fee of Rs. 50/-⁵ per year payable in advance. The license, if granted, shall be in the prescribed Form **(F.106)**.

6. **Qualifications for a license.—**

License shall not be given unless the applicant shows:—

- (a) that he/she is of respectable character;
- (b) that he/she has a good knowledge of Hindi and English and can draw up a clear, straight forward petition or memorandum of appeal in Hindi;
- (c) that he/ she has a basic knowledge of computer.

7. **A person who is a member of a local body shall not practice as a petition writer in any court within the jurisdiction of such local body is situated.**

8. **Scales of charges for writing petitions.—**

The District Judge in consultation with the two senior most Judicial Officers at his headquarters shall fix scales of charges for typing and printing petitions, plaints and memoranda of appeals, which shall also be applicable in the case of petition writers practicing in the outlying Courts of the District.

⁵ Substituted vide Notification No. 01/S.R.O./2020 dt. 26.02.2020 Pub. in Raj.Gaz.Ext.Pt-I (b)dt.27.02.2020

A copy of the scale of charges fixed shall be sent by the District Judge to the High Court for information.

No petition-writer shall ask for or accept a fee in excess of the sanctioned scale.

A table in Hindi of the prescribed scale of charges shall be painted on the conspicuous wall of the court and a copy shall also be hung-up by the petition writer always in public view at the place where he sits.

The petition-writer shall always endorse the amount actually received by him below his signature on the petition typed and printed by him and shall also issue a receipt thereof.

If any petition-writer asks or accepts a fee in excess of the sanctioned scale either for himself or for any other person connected with the court, the District Judge on complaint being made to him may, in his discretion withdraw his licence and may also order the return of the amount received in excess in addition to taking any legal step that the nature of the case may require.

9. Formalities to be complied with by a petition writer.—

Every petition-writer shall print a brief note of the contents of the petition as a head note to the same, quoting specially the law, section or rule under which the petition is made. He must record precisely what he is asked to print in plain and simple language such as the petitioner can understand and refrain from introducing additional irrelevant, imaginary or fabricated matter of his own conception. He shall record at the foot of every petition typed or printed by him other than a petition of a merely formal character, a declaration under his signature that to the best of his knowledge and belief, the petition expressed the true meaning of the petitioner to whom the contents thereof have been fully explained.

10. Amending or redrafting of a petition.—

Every petition-writer shall comply with the order of a court as to the amending or the redrafting of a petition or other drawn up by him.

11. A petition-writer to keep an official seal and a register of petitions.—

Every petition-writer shall at his own expense provide himself with an official seal to be made under the direction of the court which has granted him the license, on which shall be emboss his name and the year in which was licensed. He shall also keep up a register in the prescribed form (**Register No.215**) and shall enter therein every petition printed by him shall produce the register for the inspection of any court demanding it.

12. Every petition to be signed and sealed by the petition-writer.—

Every petition-writer shall sign and seal with his official seal every petition printed by him and shall enter in it, the number which it bears in his register and the fee which has been charged.

13. The Nazir to maintain a register of licensed petition-writer and to disallow unregistered petition-writers to write petitions—

A register in the prescribed form (**Register No.216**) of licensed petition writer shall be maintained by the Nazir and shall be his duty to see that the precincts of the Court are kept free of all unregistered writers and that no one writes petitions for remuneration within the court compound.

14. Yearly production of licence for the inspection of the Court—

Every petition-writer shall in the month of August each year produce his licence for the inspection of the court which granted it. A note of such inspection shall be endorsed on the licence under the signatures of the Presiding Officer.

15. Grounds for revoking a Licence—

(1) A licence issued under these rules may be revoked by the District Judge on any of the following grounds :—

- (a) that the petition-writer has not attended the court regularly,
- (b) that the petition-writer has become legal practitioners clerk, or has taken up some other employment,
- (c) that the petition-writer has failed to produce his licence for the annual inspection of the court as require by rule 479,
- (d) that the petition-writer has not paid his annual fee,
- (e) that the petition-writer has been found guilty of abetment of or participation in any illegal transaction or unfair dealings,
- (f) that the petition-writer has been found guilty of disobedience of a lawful order or non compliance of these rule,
- (g) or for any other good cause to be recorded.

(2) No appeal shall lie from any order passed by a court under sub-rule (1), but the High Court may in its discretion revise any such order and in place thereof pass such order as it thinks fit.

16. A petition writer not to enter any room in a court—

No petition writer shall without the permission of the Presiding Officer, enter any room in court in the precinct, where he is entitled to practice.

17. Penalty for practicing as a petition writer without a license—

Any person who practices as a petition writer without obtaining a license under these rules, or while the license is suspended, every petition writer who practices as such without getting his license renewed, shall be liable to a penalty of Rs.500/-⁶

18. Imposition of penalty—

(1) The penalty prescribed by rule 482 may be imposed by the court authorized to grant the license but no penalty shall be inflicted unless the person charged has had an opportunity of defending himself.

(2) No appeal shall lie, from any order passed by the District Judge, but the High court may, in its discretion revise any such order and in its place pass such order as it thinks fit.

19. Grant of leave of absence to a petition writer—

Senior most judicial officer at any place may grant leave of absence for any period to a petition writer of his Court and may grant not exceeding for more than one month a temporary license to any competent person of good character to act as petition writer during such absence or for such period thereof as he may deem necessary.

⁶ Substituted vide Notification No. 01/S.R.O./2020 dt. 26.02.2020 Pub. in Raj.Gaz.Ext.Pt-I (b)dt.27.02.2020

ORDER 12

LIBRARY

1. General Registers of books and periodicals—

- (1) Term –
Book includes eBook,
Periodicals includes e-Journals; and
Catalogue includes e-catalogue.
- (2) All Books and periodicals in the library shall be entered in the General Register of Books & Periodicals (**Register No.217**) and also in the Classified Catalogue (**Register No.218**).
- (3) Periodicals (e.g. Government Gazette or All India Reporter) which are eventually bound in volumes of a form different from that in which they are first received shall in the first instance be entered in the Register (**Register No.217**). They shall be taken over in the General Register of Books and the Classified Catalogue (**Register No.218**) when they are bound in the proper form.

2. Classification and arrangement of books—

Books shall be classified in the catalogue and arranged in the library, in the manner following:—

I. Collection of Acts, Ordinances and Regulations :—

- (i) Central.
- (ii) Rajasthan.
- (iii) Other States.

II. Special Acts, when printed separately

III. Commentaries on Acts.

IV. Law Treaties.

V. Departmental Codes, Guides, Manuals and Circulars-

- (i) Judicial.
- (ii) Revenue.
- (iii) Finance and Accounts.
- (iv) Miscellaneous.

VI. Law Reports. - There shall be a separate sub-head for each separate series of law reports, e.g. A.I.R., I.C., I.L.R. (Allahabad), I.L.R. (Bombay), etc.

VII. Digests. - There shall be a separate sub-head for each separate series of digests.

VIII. Periodicals including e-Journals.

IX. Administration Reports—

- (i) India.
- (ii) Rajasthan.
- (iii) Other States.
- (iv) Miscellaneous Departments.

X. Dictionaries, Glossaries, Lists and Directories.

XI. Miscellaneous.

3. Room for Library—

- (1) The books composing the Library of each Court shall, if practicable, be collected together in a separate room assigned for the purpose.

- (2) Where there are more than one court at the headquarter, such library shall be centralized library under the supervision of senior most judicial officer posted at headquarter.

4. Librarian and his duties—

In each court and in centralized library, an official to be nominated by the District Judge, shall be specially placed in charge of the such Library as Librarian.

It shall be the duty of the Librarian—

- (1) to stamp the seal of the Court on the title page, the tenth page and the last page of print of each book;
- (2) to affix on the first page below the cover and on the lower portion of the back of every book received for deposit in the library a stamp or label in the following form :

GOVERNMENT PROPERTY

Gen. No.

Class

Sec. No.

Court of the

at.....

- (3) to check the catalogue at the commencement of each year;
- (4) as soon after 1st January as possible, the result of the check and certificate as to the condition of the books in the Library;
- (5) to issue books from the Library in accordance with the rule following, and to see that no books are issued otherwise; and
- (6) to report the loss of any book from the Library as soon as discovered.

5. Receipt for books taken out—

When any Presiding Officer requires a book from the Library, he shall send a receipt for it on a slip of paper, which shall be returned to him when the book is returned to the Library.

The Librarian shall enter in a book (**Register No.219**) to be kept for that purpose—

- (1) the name and number of each book removed from the Library on that day and not returned before the close of the day;
- (2) the date when it was removed ;
- (3) the name of the person who received it; and
- (4) the date when such book is returned to the library.

Every reasonable facility is to be afforded to Government Counsel to consult the law books in the court's Library.

6. Check of Books—

The Librarian will submit to the Presiding Officer a quarterly list in January, April, July & October showing the books which have been out of the Library for more than one month who will then take necessary steps to secure the return of the books unless there is good reason for their retention by the borrower.

7. Loss of Books—

When the loss of any book is reported, the District Judge, will from the charge certificates of the clerks concerned during the year and after making necessary inquiries, decide whether the cost of the missing books should be recovered from them or from other persons responsible:

Provided that the person responsible for the loss of the book may replace the book in lieu of payment of its costs.

8. Gazette—

Gazette shall be regularly filed and carefully bound in to annual volumes.

9. Books etc. not to be weeded—

The following books and publications shall not be weeded without reference to the High Court:—

- (1) Collection of Acts, Ordinance and Regulations;
- (2) Commentaries on Acts;
- (3) Law Treatises;
- (4) Latest editions of the manual of Government orders, Books, Circulars of the Board of Revenue, Service Rules, Treasury Manual, Financial Hand Books, Civil Account Code, Standing Orders of the Accountant General and of the directions and Manuals (including circulars) of the various departments : also single copies of superseded editions of the above;
- (5) Law Reports;
- (6) Digests;
- (7) Government Gazettes;
- (8) However, District Judges may weed out the following publications without reference to the High Court:—
 - (a) Duplicate copies of superseded editions of publications mentioned in rule 389.
 - (b) Superseded editions of village directories, histories of gazetted officers and civil and army lists.

10. Weeding of valuable books—

When it is proposed to weed duplicate copies of work of any value, reference should be made to the High Court for information as to whether the books are required elsewhere.

ORDER 13

DUTIES OF SR. MUNSARIM

1. Sr. Munsarim—

Sr. Munsarim, where he is appointed, shall be the Chief Ministerial Officer of the Court.

Where a Sr. Munsarim is not appointed, the Reader shall be the Chief Ministerial Officer of the Court and shall perform the duties prescribed for the Sr. Munsarim by any rules or orders.

During the absence of Sr. Munsarim (or Reader) on leave or otherwise, the Presiding Officer may appoint any official considering the seniority and suitability of his court to perform the duties of Sr. Munsarim.

2. Date of presentation to be noted on papers—

A Sr. Munsarim appointed to receive complaints or other papers under the Code shall see that the actual date and time of presentation is entered upon the complaint, memorandum of appeal, cross-objection or any other paper filed and also upon the labels on such papers. Entries of such papers shall be made in Case Information System.

3. Duties of Sr. Munsarim—

The duties of Sr. Munsarim include :—

- (1) the duties assigned by the Code to the Chief Ministerial Officer of a Court;
- (2) the duties for the performance of which he is appointed by the Court under the provisions of the Code, or otherwise;
- (3) if the Court appoints him to sign routine orders, summons and notices which the Presiding Officer is not himself required to sign under any law or order in force;
- (4) to see that accounts and statements as are by any law or order required to be exhibited and filed in due time and form and to take the orders of the Court thereon;
- (5) to keep up such books and registers and to perform such duties as he is expressly required to do by any Rule or Order of the High Court;
- (6) to arrange for the preparation and due submission of periodical returns and statements, to draft letters; and to carry out orders contained in precepts of the High Court as to issue of notices and transmission of records;
- (7) under the orders of the Court, to assign to his subordinates, the duties to be performed by each;
- (8) generally to supervise the working of the office in all departments; and
- (9) to maintain a register of attendance of all the ministerial officials under his control.

4. Delegation of duty—

No duty, the performance of which is specifically imposed by the Legislature upon the court itself, shall be delegated to the Sr. Munsarim or any other officer.

ORDER 14

SECURITY BY COURT OFFICIALS

1. Security to be taken from certain officials—

Every Nazir, Court's Process-Server, Amins, peon, or other Ministerial official employed in a Court who by reasons of his office is entrusted with the receipt, custody or control of moneys, securities for money or other property, shall give security in the prescribed form **(F.107)** or infidelity Bond issued by any recognized Insurance Company of such an amount for the due discharge of the trust of his office and for the due amount of all moneys, securities for money or other property which shall come into his possession by reason of his office as shall be equal to the maximum amount which he ordinarily has in his hands at any one time. The District Judge, subject to the control of the High Court shall use his discretion in calculating this amount and shall be responsible for seeing that the sum left in the hands of any of his subordinate is not more than the amount of the security taken from such subordinate.

Security shall in no case be dispensed with except where exemption may be made under special or general orders of Government. Exemption cannot be sought on the ground that a person is an apprentice, outsider or other temporary incumbent.

2. Nature of Security—

The rules hereinafter appearing are made for the guidance of District Judges.

Attention must also be paid to secure that the proper forms of securities or bonds are used.

Fixed deposit receipts of banks accepted as security must be issued in the name of Government. In such case, a clause must also be inserted in the depositor's security bond to the effect that Government will hold the fixed deposit receipt at the depositor's risk and will not be liable to the depositor in the event of loss of the security, due to failure of the bank or any other cause, and that if the security is lost, the loss will fall on the depositor who must furnish fresh security forthwith.

3. Officiating incumbents of above posts—

A leave vacancy of any official mentioned in rule 1 shall as far as possible, be filled up by an official who has already furnished security in his former office or a reserve of men who have furnished securities for these appointments. The District Judge shall arrange to maintain list of such officials and their securities must be scrutinized annually.

4. Verification of security—

The value and adequacy of a security shall be verified as soon as it is furnished. If the verification is likely to take time and appointment or promotion cannot be delayed, a personal bond with sureties, shall be obtained, but the same shall be discharged when the original security has been finally verified.

5. Custody of Security Bond—

All security bonds and all securities shall be kept in safe custody in accordance with the provisions contained in the General Financial and Account Rules.

6. Register of Securities—

District Judges shall keep up Register of Securities (**Register No.220**) which shall be kept with the bonds in the Treasury of the headquarters of the District Judge and shall note in general terms without details in their annual report on the administration of Civil Justice that this has been done. District Judge will be held personally responsible if loss is suffered in consequence of the neglect of these orders. The register should contain full particulars as to the pecuniary responsibility of the public accountant and his sureties and the nature and value of the security offered.

7. Retention of Security—

In order to safeguard against cases in which discovery may be made, after the official has vacated his office, of defalcations made prior to such vacation of office, the security deposited by him shall be retained by the District Judge for 6 months after the official has vacated his office.

8. Annual inquiry into sufficiency of security—

In the first week of each calendar year, the Presiding Officer of each court shall inquire into the sufficiency of security given by each public accountant in his office, and where it appears inadequate from any cause, will require fresh or additional security to be given.

A mortgage security may be considered sufficient if it is a first mortgage of immovable property situate in India:

Provided that the property be not a lease hold for a term of years, and that the value of the property exceeds by one-third the amount secured.

When there has been no mutation of ownership or sensible depreciation of the property pledged, it will be unnecessary to renew the security bond. A note of the result of the verification should be made in the register.

ORDER 15

COURT ACCOUNTS

1. Accounts with the Treasury—

Accounts with the treasury shall be maintained as per the GF&AR as amended time to time.

2. A number of Courts may have a single account with the Treasury under the orders of the High Courts—

- (1) The High Court may order with respect to any courts located at the same station, that they shall have a single account with the Treasury.
- (2) When an order has been made under sub-rule (1) the senior most Presiding Officer of the highest court shall keep and render the accounts of all the courts to which order refers :
Provided that (Subject to any instruction of the District Judge) the senior most Presiding Officer of the highest court may place the Presiding Officer of any other court In-charge of accounts without relieving himself of the responsibilities for the due accounting of all receipts and payments.

3. Appointment of a Receiving officer—

- (1) Every court or where two or more courts have a single account with the Treasury, every such group of courts, shall have an official entrusted with the receipt of money deposited in the Court.
- (2) Such official shall be called as the Receiving Officer and shall be appointed by the Presiding Officers of the Court or where two or more courts have single account with the Treasury, he shall be appointed by the Presiding Officer of the highest court subject to instructions if any, of the District Judge concerned.
- (3) In a court where no official is appointed specifically to perform the duties of the Receiving Officer or during the absence on leave or otherwise of the person appointed as the Receiver Officer, the Presiding Officer of the court or the senior most Presiding Officer of the highest court as the case may be, shall appoint any other official of his court to carry on the duties of the Receiving Officer.

4. Head of account—

The following are the Head of Account under which the money received and paid-under these Rules are classified:—

- (1) Deposits;
 - (a) Court deposits, including;
 - (i) sums paid under decrees and orders;
 - (ii) Sums deposited under Order XX, Rule 14 and Order XXIV, Rule 1 of the Civil Procedure Code and Section 83 of the Transfer of property Act;
 - (iii) Sums deposited under Order XXII, Rule 84 or paid under Order XXI, Rule 85 of the Code;
 - (iv) Sums deposited under Section 379 (1) of the Indian Succession Act;
 - (v) Sums deposited in lieu of security;

- (vi) Sums deposited under any law relating to the Land Acquisition;
- (b) petty cash deposits, Including deposits for;
 - (i) Travelling and other expenses of witnesses;
 - (ii) Subsistence money for judgment debtors;
 - (iii) Incidental charges of Commissions, Amins and Arbitrators etc;
 - (iv) Commission fees;
 - (v) Postage and registration fees;
 - (vi) Cost of publication of proclamation and orders ;
- (2) Other Administrative Services.
 - A. Administration of Justice.
 - (a) Services and Service fees;
 - (i)
 - (ii) Civil and Sessions & the judicial Court;
 - (b) Fines and forfeitures;
 - (i)
 - (ii) Civil and Sessions & other judicial Court;
 - (c) Other Receipts.

- I. Sale proceeds of unclaimed and escheated property—
 - (i)
 - (ii) Civil and Sessions & other judicial Courts.

II. Legal Aid to the poor.

- III. Recoveries of over payment.
 - (i)
 - (ii) Civil and Sessions and other judicial Courts.

- IV. Other Receipts.
 - (i)
 - (ii) Civil and Sessions & other judicial Courts.

- (d) Stamp duties & penalties.

Note: — Sub-Heads (a), (b) & (c) have been classified in the state Account under the major Head "065 Other Administrative Services" and sub-Head (d) under the major Head "0.30 Stamps & Registration fees". These major Heads and sub-Heads will automatically be deemed to have changed whenever they are changed in the Budget.

- (3) Departmental cash including :—
 - (i) Salary of establishment.
 - (ii) Travelling allowance.
 - (iii) Contingencies.

5. Use of International forms of Indian numerals—

In the maintenance and preparation of accounts and in the submission of statements relating to accounts international form of Indian numerals shall be used.

6. Time for receipt of deposits—

- (1) Cash payable into court may be received from opening of the court until a time which shall unless otherwise provided, be one hour in advance of the time fixed for the closing to the public of the Treasury and the account for the day shall then be made up.

- (2) District Judge, having regard to local circumstances may prescribe the hours during which money may be received in any court within his jurisdiction.
- (3) But, cash payable under Head of Account (1) (a) of Rule 4 must be received when the court is situated over 8 Km. away from the nearest Treasury.

7. Deposits in cash—

- (1) Direct receipts of money which fall under Head of Account (1) (a) of Rule 4 shall generally be avoided by court:
- (2) Cash shall however, be received when tendered under Head of Account (1) (a) of Rule 4 in the following cases:-
 - (a) When the court is over 8 km. away from the nearest Treasury.
 - (b) When the money is payable into court under any of the Section following namely, Section 55, Order XX, Rules 11 and 14, and Order XXI, Rules 84 & 85, Civil Procedure Code of 1908 and Section 379 (1) of the Indian Succession Act, 1925 and is tendered after the hour prescribed in Rule 6.
 - (c) When the proceeds of movable property, sold in execution through the officer of a Court, under order XXI, Rule 77, Civil Procedure Code, cannot be paid into the Treasury on the day of sale.
 - (d) When the amount of the money tendered does not exceed Rs. 500/-.
 - (e) Cash payable under this Head i.e. Head of Account under Rule (1)(a) of Rule 4 must be received tendered even after the closing of time for deposit of cash in the court.
 - (f) Such transaction shall be entered in the accounts bearing date the next open day; but the receipts given to the payer shall also show (as a denominator) the actual date of payment, e. g. November 6/7.
- (3) Such Repayments of money falling under Head of Account (1) (a) shall be made through the Treasury.
- (4) Payment under Head of Account (1) (b) of Rule 4 shall be received in cash by the Receiving Officer of the court.

8. Registers—

The following registers shall be kept by the Receiving Officer of each court:—

- (1) Register of Receipts of Deposits/ Repayment/ Lapsed amount **(Register No.221)**;
- (2) Register of Applications for Repayment order **(Register No.222)**;
- (3) Register of Revenue Receipts **(Register No.223)**;
- (4) Register of Money Order Received **(Register No.224)**;
- (5) Register of payments made by postal Money Order / Bank Draft **(Register No.225)**;
- (6) Register of Tenders (Challan) **(Register No.226)**;
- (7) Cash Book (General) **(Register No.227)** *According to format as provided in GF&AR from time to time;
- (8) Register of Salary Bills **(Register No.228)**** use only Bill Transit Register;
- (9) Register of T. A. Bills **(Register No.228)**** use only Bill Transit Register;
- (10) Register of Invoices **(Register No.228)**** use only Bill Transit Register.

9. Erasures prohibited—

No erasures shall be allowed in any register, book or extract kept under these rules; where an alteration is necessary, the original figures shall be crossed out and the correct figures placed above them in red ink and initialled by the Presiding Officer.

10. Mode of payment of money into court—

- (1) Payment of money into court shall be made online through e-grass portal of the Government of Rajasthan which electronically generates the tender form in 5 copies in form **(F.108)**.

⁷Provided that payment of money into court may be made directly through any online payment mode or portal.

- (2) The depositor shall enter required information in the court language or in English in tender form.
- (3) The depositor shall hand over filled up tender to the Sr. Munsarim/ Reader.

The Sr. Munsarim or the Reader of the court concerned, as the case may be, shall then call upon the official-in-charge of the record of the case for an office report as to whether the amount and nature of the payment tendered and the number of the suit, or proceeding, if any are correct, and whether the payment is due from the person on whose account it is tendered. Any necessary corrections shall be made and the Sr. Munsarim or the Reader of the Court concerned, as the case may be, shall then sign the tender and enter it in the register of challans prior to the order for receipt of payment being passed.

- (4) The order to receive payment shall be prepared in the office of the Court and shall be en faced upon the forms of the tender, and shall run in the name of Receiving officer as prescribed in Rule 6.
- (5) The order shall be signed by the Presiding Officer for all amounts payable under Head of Account (1) (a) and (2) of Rule 4 and by the Sr. Munsarim or the Reader of the court concerned, as the case may be, for all amounts payable under Head of Account (1) (b) of Rule 4.
- (6) The tender form shall then be sent to the Receiving Officer who shall prepare cash challan in Form No. G.A. 57 in Duplicate and will hand it over to the party concerned for depositing the amount in Treasury/ Bank.
- (7) After depositing the amount in the Treasury, the party shall submit one copy of the cash challan to the Receiving Officer bearing bank endorsement of depositing of such amount.
- (8) The Receiving Officer shall then make necessary entries in the concerned Register and make endorsement of the challan No. and date and amount on each of the forms of the tender.
- (9) Thereafter, the Receiving Officer shall send the tender forms to the Sr. Munsarim or the Reader of the Court concerned, as the case may be. One form of tender shall be retained in custody by the Munsarim or the Reader of the court concerned, as the case may be, and then he shall return one copy of the tender to the

depositor and the original copy shall be sent to the concerned court for keeping it in the concerned case file.

11. Sr. Munsarim's responsibility to prevent unnecessary delay—

The Sr. Munsarim or the Reader of the Court concerned, as the case may be, shall be responsible that no unnecessary delay occurs in obtaining the office report and the order to receive payment and in returning the duplicate form of tender the applicant and the original form to the court concerned for placing it on the relevant case file.

12. Procedure on presentation of the tender forms—

On presentation of the three tender forms and on payment of money to the Receiving Officer named in the court's order to receive payment, the applicant shall receive as an acknowledgment, the duplicate form of the tender duly signed.

13. Cash-Book and Register of petty Receipts—

(1) Every receipt of cash under these rule by the Receiving Officer shall be forthwith entered by him, in the relevant Cash-Book. Cash-Book shall be maintained in the format prescribed in the GF&AR of the State Government as amended time to time.

14. Remittance of receipts to the Treasury—

- (1) The sums entered in the Cash-Book shall as soon as possible, after the time for receiving money under Rule (6) has expired, be deposited within three days of receipt in the Treasury/ bank through Cash Challan (G. A. 57) showing the several classes of receipts in their appropriate columns.
- (2) On receipt of the copies of the challan from the Treasury, necessary entries regarding remittances shall be made in the relevant cash books and on each of the form of tender.
- (3) When there is no sub-treasury in the same town where the court is situated, remittances of cash from such court to the Treasury/ Bank accompanied by the cash challan may be made twice a week.
- (4) When money is sent to a court by a money order or under cover of a letter; the money order or letter, and the amount sent shall be received by, the Sr. Munsarim or the Reader of the court concerned, as the case may be, and shall be laid before the Presiding Officer; and an acknowledgment under his signature shall be given to the sender.
- (5) If the money order or letter covers only a single sum for deposit, it shall be filed as an original tender with the record of the case.
- (6) If the money order or letter covers more sums than one for deposit, the coupon or other shall be filed in a separate file, of Tenders by letter.
- (7) For each item a form of tender shall be generated through e-grass portal and shall be prepared in the office.
- (8) The procedure laid down hereinabove shall then be followed, save that such sums shall in all cases be made payable to the court's Receiving Officer.
- (9) For the period courts are closed for vacation, Sr. Munsarim or the Reader or the Official acting in his place, as the case may be, shall receive all money orders, sign acknowledgments for the

same and do other acts, which under the aforesaid preceding rules are ordinarily required to be done by Presiding Officer.

- (10) The work done of the official mentioned above under this rules shall be checked and reported to the District Judge within a week by each Presiding Officer on the reopening of the courts after the vacation.

15. Correspondence between Court and Treasury Accounts—

At the close of the day, the Sr. Munsarim or the Reader of the Court concerned, as the case may be, shall take the Register of Tenders to the Receiving Officer and shall compare the entries with the Treasury receipted challans received from the Treasury and with the relevant register of the Receiving Officer. When money has been deposited the Receiving Officer shall certify such receipt in the register of Challans (Tenders) (**Register No.226**) giving the serial number and date of the Deposit Register. The Munsarim or the Reader of the court concerned, as the case may be, shall then countersign the Receiving Officer's Certificate at the foot of the original Tender, and relevant Registers and case the Original Tender to be filed with the record to which it relates.

Repayments

16. Repayment of Petty receipts—

- (1) The repayments of petty receipts shall be made by the Receiving Officer after obtaining a receipt on the relevant voucher.
- (2) At the end of each quarter, the Receiving Officer of every court shall ascertain what balance of moneys deposited has become repayable during the preceding quarter. Such list (**F.109**) shall be affixed to the notice board in a conspicuous part of the Court-house.
- (3) No repayment of any other sum shall be made except (1) upon an application in the prescribed form (**F.110**) upon an office report and the court's orders thereon, or (2) upon an office report hearing such orders. Every such application shall be signed by the person to whom the money is due and payable and his signature shall be witnessed. No application except on the prescribed form (**F.110**) shall be received by a court.
- (4) Before the form of application for repayment is signed by the person to whom the money is due and payable, columns 1 to 4 shall be filled up. The form shall then be presented to the Munsarim or the Reader of the court concerned, as the case may be, by which the money is held in deposit.
- (5) The application shall bear the court-fee, if any, prescribed by law.
- (6) If the person to whom the money is due and payable appears in person to receive the money and is not personally known to the Presiding Officer, no order for payment shall be made until he has been identified by a counsel or other person, known to such officer.
- (7) If the person to whom the money is due and payable does not appear in person, no order for payment shall be made unless and until the Presiding Officer is satisfied by affidavit or otherwise that the person asking for payment has been duly

authorized by the person to whom it is due and payable by an instrument in writing to receive the money.

17. Repayment application to be compared with record of case—

- (1) If the record has not been sent to the record-room the Sr. Munsarim or the Reader shall cause particulars of the application for repayment to be verified with the record of the case, and a report shall be made in columns 5, 6 and 7 of the form of application and shall be signed by the Sr. Munsarim of the court concerned, as the case may be. If the application be found to be incorrect or defective, the defect or error shall be noted upon it, and it shall be returned to the applicant for correction by him or for reference by him to the court.
- (2) If the record of the case has been despatched to the record-room, the Munsarim or the Reader of the court concerned, as the case may be, shall forward the application to the record-keeper who shall certify the particulars required in columns 5 to 7 of the aforesaid application, for repayment and shall sign the same.
- (3) If the record of the case has been despatched to the High Court or other appellate court, the Munsarim or the Reader of the court concerned, shall forward the aforesaid application to such court giving reference to the case in connection with which the record has been sent. On receipt of such application in the High Court or other appellate court, the Registrar or Munsarim or the Reader, as the case may be, shall certify under his signature, the particular as required in columns 5 to 7 of the above said application and shall forthwith return it to the court which forwarded it.
- (4) The Receiving Officer of the court to whom application is made shall then report as to the particulars required in column 8 of the form of the Repayment Application and shall sign the same. The Receiving Officer before making his report shall carefully ascertain whether or not there is any attachment or stop-order affecting the money.
- (5) The application shall then be laid before the Presiding Officer for his order, and if the order be one for repayment, the amount to be repaid shall be entered in figures and words upon the form of application by the Presiding Officer in his own handwriting.
- (6) The repayment order shall be prepared as per the requirement of General Accounts & Finance Rules. The Presiding Officer shall himself enter in figures and words in the space provided above his signatures, the amount of repayment ordered by him.

18. Delivery of Repayment Order to Applicant—

- (1) The repayment order when prepared shall be sent to the Treasury by the court when the Order of repayment is made.
- (2) When the repayment order is received back duly passed by the Treasury, the Receiving Officer shall deliver the bill to the party for presentation to the bank for encashment after obtaining the receipt thereof.
- (3) A specimen of the signature of the Drawing Officer shall be sent to the Treasury.

19. Duty of Munsarim—

- (1) The Sr. Munsarim or the Reader of the court concern, as the case may be, shall be responsible that no unnecessary delay

occurs in obtaining the necessary report, and in preparing the repayment order. He shall ensure that orders are obtained without undue delay i.e. 4 days from the date of receipt of refund application, if the record of the case was at the same station of the court and 10 days if the record was at another station and shall seek explanation in the case in which orders were not so obtained.

20. Lapse of repayment order—

- (1) When a repayment order has been refused by the Treasury on the ground that the amount has lapsed to Government or that repayment order has not been submitted to the treasury within financial year, the office copy of the repayment order shall be enfaced with the words cancelled written in red ink and initialled by the Presiding Officer and the original repayment order shall be destroyed. A fresh order shall then be issued and a note of the fact being made upon the office copy of the original order.
- (2) Once in every quarter and whenever the cash balance exceeds the amount for which the Receiving Officer has given security, the Presiding Officer shall check the receipts and repayments and shall cause unclaimed balances, which is no longer necessary to retain in the court to be remitted to the Treasury as miscellaneous deposits. Each item so remitted shall be treated as a separate deposit, and if not claimed, shall lapse to Government.

The result of the quarterly check by the Presiding Officer under this rule shall be reported for information and orders of the District Judge.

In the case of repayment order of such lapse deposit; refund application shall be sent to Accountant General for sanction. The fact of the item having, lapsed should in such cases be noted on the office copy of the original order.

21. Loss of repayment order—

When a repayment order is lost, no fresh order for repayment shall be made until the period of validity of the previous order has expired and a certificate of non-payment in the prescribed form **(F.111)** be obtained by court from the Treasury before a fresh order is issued. The procedure mentioned in Rule 109, G. F. & A. R. shall be followed for preparing a duplicate repayment order.

22. Checking of cash balance—

Once in every week, the Sr. Munsarim or the Reader of the court concerned, as the case may be, shall examine the cash balance, in the hands of the Receiving Officer and shall submit to the Presiding Officer a certificate in the following terms **(Return No.1)** :—

"I certify that I have personally examined the registers and counted the cash balance in the hands of the Receiving Officer and have found the same to be correct."

23. Application for repayment to be filed with case file—

When the repayment or transfer has been so advised and entered, the Receiving Officer shall endorse the fact of repayment upon the form of application, which shall then be filed with the record to which the repayment relates.

24. Exclusion from accounts of direct payments by one to another party—

Moneys paid by one party to another in court including payment of decretal amounts by judgment debtors to decree holders or their counsel or payment of cost of the day allowed by the court, but not through an officer of the court, shall not be entered in the court's registers of accounts. When money is to be paid by one person to another and both are present in court, money may be passed direct from the one to the other under the sanction of the Presiding Officer, the fact being noted in the record of the case/ order sheet of the file. In case of payment of sums exceeding Rs. 1000/-, the officer shall have a receipt in the prescribed form **(F.112)** executed in his presence, a copy of which shall be filed with the record of the case. The payee, when not personally known to the Presiding Officer, shall be identified by someone who is so known. Care must be taken in these cases that no officer of the court receives or becomes in any way responsible for the money.

25. Initialling of Registers—

Each entry in Registers of Receipts and Repayments of Deposits shall be initialled by the Sr. Munsarim or the Reader of the Court concerned, as the case may be, and the Presiding Officer of the Court, ordering receipt or payment.

Each entry in the Register of petty Receipts and repayments, and in the Register of Revenue Receipts shall be initialled by the Sr. Munsarim or the Reader of the court concerned, as the case may be, and the daily totals shall be initialled by the Presiding Officer.

26. Cash-Book—

- (1) All receipts and repayments under Head 1 (a) of Rule 4 shall be entered in the Deposit Cash Book.
- (2) The daily totals of receipts and repayments under Head 1(b) of Rule 4 shall be entered in the Deposit Cash-Book from the Register of Petty Receipts.
- (3) The daily totals of the Deposit Cash-Book shall be entered in the General Cash Book.

27. Verification of the entries of Cash Book—

At the end of every quarter, a certificate in the following terms shall be recorded upon the Deposit Registers, and signed by the Presiding Officer for every court:—

"I certify that I have carefully examined the Register of Receipts/Repayments of Deposits, and that the entries are made therein with care and regularity."

Before recording such certificate, Presiding Officer shall ensure that :-

- (a) that all necessary entries are made and initialled at the time of the transaction;

- (b) that no money is unnecessarily placed in deposit or remains there without good cause;
- (c) that correctness of each entry shall be verified from the original order/ voucher;
- (d) that Receipt entries are supported by Treasury Cash Challan;
- (e) that Repayment items are supported by the relevant refund bills;
- (f) that Repayment from any deposit does not exceed the available balance;
- (g) that the total of such Repayment orders issued by the court, but have not been encashed at the Treasury, have been deducted from the grand total.

28. List of lapsed deposits—

- (1) The Treasury Officer shall send a copy of the list of lapsed deposits of a particular financial year duly approved by the Accountant General to the Court concerned in the ensuing year. On receipt of such list the words "credited to the Government as lapsed on 31st March, 20...." shall be written in red ink against such item in the cash book. Appropriate entries shall be made in the column "Treasury" of Reg 21.
- (2) A Copy of such list shall be prepared and placed on notice board by 15th of the next month on a conspicuous part of the court house and shall also be uploaded on website of the Court.

29. Refund of lapsed sums—

Deposits thus credited to the revenues of the State will not be repaid without the sanction of the Competent Authority. The amount of a lapsed deposit refund will be charged as a refund and not debited to deposit. The application for refund shall be recorded in the column of remarks in the register of receipts of deposits and on the office copy of the list of lapsed deposits, if it has not already been weeded, so as to guard against a second repayment. Application in prescribed form (F.G.A. 154) be sent to the Competent Authority for sanction of the refund of lapsed deposits.

30. Procedure in, cases of forfeitures ordered by court under Order XXI Rule 86 of the Code—

The following rules shall regulate the procedure in cases of forfeitures ordered by court under Order XXI, Rule 86 of the Code:—

- (1) In the case of a sale conducted by an officer of the court or by any other person (not being a Collector) appointed by the court, if on default being made in the payment of purchase-money within the time specified in Order XXI, Rule 85 of the Civil procedure Code (Act No. V of 1908), the earnest money deposited under Order XXI, Rule 84, is ordered to be forfeited under Order XXI, Rule 86 of the Code, the court shall make over to the Receiving Officer a repayment order for the amount of the fee payable by way of poundage and the Receiving Officer shall buy stamps representing that fee and affix them on the order directing the deduction to be made.

As to the remainder of the earnest money the court shall:

- (a) Send a proceeding to the Treasury Officer informing him of the forfeiture of the item and of the number and date borne by it in the Register of Receipts of Deposits, and requesting him to transfer and credit it to Government

- under Head "065—Other Administrative Services (A) Administration of Justice, (B) fines and forfeitures;"
- (b) mark of the item in red ink in cash book as "forfeited under Order XXI, Rule 86 of the Civil Procedure Code (Act No. V of 1908) the day of 20... " and enter it in column 24 of that register; and
 - (c) debit the item in the Register No.21 in column "Treasury" on the day on which transfer is advised by the Treasury Officer.
- (2) In the case of a sale conducted by a Collector, if on default being made in the payment of the purchase money within the time specified in Order XXI, Rule 86 of Civil Procedure Code (Act No. V of 1908) the earnest money deposited under Rule 84 be forfeited under Rule 86 of the Code, the court will on report of fact of non-payment being received from the Collector, (a) send a proceeding to the Treasury Officer informing him of the forfeiture of balance shown in column 12 of the Collector's report of sale in the prescribed form (**F.113**) as held in deposit after the poundage fee payable has been deducted and credited to Government as provided in Rule 292 and of the amount of that balance and the number and date borne by it in the Register of Receipts of Deposits and requesting him to transfer and credit it to Government under Head "065—Other Administrative Services (A) Administration of Justice (B) Fines & forfeiture", and (b) mark of and enter the item in the Register of Receipts of Deposits and debit in the Cash Book in the manner prescribed in sub rule (1).
 - (3) In respect of no item credited to Government under this rule shall a repayment order be issued, but every such item shall be entered in the Register of Repayments of Deposits.

31. Duty on applications for certificate under the Indian Succession Act—

- (1) Every application under Section 372 of the Indian Succession Act, 1925 (Act No. XXXIX of 1925) shall state the value of the debts and securities in respect of which the certificate is applied for; and shall be accompanied by a deposit of the estimated amount of stamp-duty payable on such certificate, and any person who may take objection to the issue of a certificate to himself, shall in the like manner be required to bring into court with his claim the estimated amount of stamp-duty payable on such certificate.
- (2) However, court may grant permission on application of the concerned to submit appropriate amount of stamp-duty payable after the grant of application or claim, on furnishing adequate security of such estimated amount of stamp-duty.
- (3) Every amount brought into court under this rule shall be deposited in the Government Treasury, and if the application or claim be granted, will be withdrawn under Rule 276 of Order XXX.
- (4) If the application or claim is rejected, the amount shall be repaid to the party by whom it, was brought into court.

32. All moneys to be entered in accounts—

All moneys received and paid by or through any officer or official in his official capacity as an officer or official of a court shall, without any reservation, be entered in the public accounts.

33. Un-authorized Funds disallowed—

No un-authorized funds, as for instance from mines or from deductions made from the pay of establishment or from any other sources, shall be maintained.

34. Establishment Order Book—

An Establishment Order Book in the prescribed form (**Register No.229**) shall be maintained in all courts in which the final result of each order on the subject of appointment, promotion, reversion etc., of individual officials should be shown. The Munsarim or the Reader of the court concerned, as the case may be, shall check the office copies of establishment pay, bills by comparison with the entries in this Establishment Order Book. The Officer who passes establishment pay bills should also occasionally check a few items with the Establishment Order Book.

35. Check over postage—

District and Sessions Judges and the Presiding Officers of subordinate courts shall be responsible for checking expenditure on service postage labels, including postage on judicial processes and cash postage.

They shall see:—

- (a) that the Central and other Nazirs are thoroughly acquainted with the postal rules and rates and take advantage of the most economical method of despatch;
- (b) that all letters and papers excluding records intended for one office are despatched in one cover;
- (c) that one of the clerks of their courts is appointed to sort and despatch the letters and papers of each department or their courts in different covers to the Nazir.

36. Custody of cash and articles of value—

- (1) In every District Court, situated near the District Treasury, the District Judge shall arrange that cash received by the Central Nazir and required by law or rule to be retained by him or retained by him in his official capacity are kept in a substantial box, and that this is duly deposited in the District Treasury.
- (2) Moneys received by the Central Nazir of such a court at a time when the box has been deposited, or by the Central Nazir of a court at a distance from the Treasury, shall be kept in the safe which has been specially supplied under Government orders to each District Court for the use of the Central Nazir.
- (3) The Central Nazir will be supplied with a fairly large box in addition to the substantial box in which he keeps cash. This additional box will be used exclusively for keeping in it articles of value received by him and required by law or rule to be retained by him or retained by him in his official capacity. It shall be securely locked and will ordinarily remain in the Treasury. If any of the articles in it are required by the court in a particular case, the box, or the articles required, will be sent for from the Treasury and returned to the Treasury the same day unless the court orders otherwise.
- (4) The articles received by the Central Nazir at a time when it is not possible to have access to the Additional box may be kept in the

safe supplied for his use, but subsequently these articles shall be placed in that box without any delay.

- (5) All articles received by a Central Nazir or Nazir will be entered in a register to be maintained for the purpose **(Register No.230)**.
- (6) The Presiding Officer of an outlying court, shall see that the Nazir, on the closing of the Court each day makes over his cash chest for safe custody to the local Treasury/ Sub-Treasury/ Tehsil-Treasury*, as the case may be.
*Note:— At every such Treasury where such chests are received for safe custody, the Tehsildar or Officer in charge of such Treasury shall inform the Presiding Officer in advance of all holidays on which the such Treasuries will be closed, and on such holidays, shall on an application being made, open such Treasury from 10 to 11 a.m. and from 3 to 4 p.m. for the purpose of issuing and receiving the chests.
- (7) The District Judge, when inspecting an outlying court shall see that the cash and stamps are kept in strong boxes secured with good locks; and shall report any case in which difficulty may be experienced in giving effect to the above order, owing to the court being situated at an inconvenient distance from the Treasury or Sub-Treasury, or from any other cause.
- (8) District Judges should make surprise visits to the Nazarat at Headquarters at least once in every half year, and maintain a record certifying that this has been done and that the provisions of Rule 14 and of this rule are being complied with.
- (9) Presiding Officers will make these inspections for outlying Nazarats.
- (10) Cash and articles of value received by a subordinate court at headquarters shall be forwarded for deposit to the Central Nazir.

37. Statement showing receipts under Administration of Justice Head—

The Presiding Officer of each Court shall before the 15th of every month prepare a statement in the prescribed form **(Return No.3)** showing the amounts of receipts under the respective revenue Heads specified in the form which were credited into the Treasury during the previous month. This statement should then be sent to the local Treasury and verified by the Treasury Officer. The discrepancies, if any, pointed out by the Treasury Officer should be reconciled and after the statement has been duly verified, it should be submitted to the District Judge who, as Controlling Officer, will see that the dues of Government are regularly paid into the Treasury.

38. Defalcation or loss of public money—

On the occurrence in any department of a Court of any defalcation or loss of public money, the fact shall be at once reported to the High Court.

When the matter has been fully inquired into, a further complete report shall be submitted to the High Court about nature and extent of loss and the officials responsible for causing it and showing the errors and neglect of rules by which such loss was rendered possible.

39 Check over entries of receipt of money –

The Presiding Officer of each Court shall, before the 15th of every month, prepare a statement showing the amounts of receipts under the respective revenue Heads which were credited into the treasury

during the previous month, and shall send the statement to the local treasury. The Treasury Officer shall check the total with his accounts; and if he finds them correct, he shall certify on the statement of that effect. If there is any discrepancy, he shall note the same upon the statement. The Treasury Officer shall in either case return the statement to the Court from which it was received. The discrepancies, if any, pointed out by the Treasury Officer shall be reconciled and after the statement has been duly verified it should be submitted to the District Magistrate, or the Sessions Judge, as the case may be, who, has controlling officer, will see that the dues of Government are regularly paid into the treasury.

40. e-Payment-

- (1) Notwithstanding anything contained in these rules, no court shall accept any payment of whatsoever in nature in cash **after the date notified by the High Court**. Every such payment shall be made through e-payment (e-challan/ eGrass/ Netbanking/ E-Mitra Kiosks/ Debit Card/ Credit Card etc.).
- (2) Notwithstanding anything contained in these rules, no repayment shall be made to any party in cash **after the date notified by the High Court**. Such repayment shall be made through e-transfer.
- (3) High Court may **notify** any other date for the implementation of this provision for any particular district.

ORDER 16

FORMS, RETURNS AND REGISTERS

- (1) Notwithstanding anything contained in these rules, forms, returns and registers prescribed in following Appendixes shall be used by the courts wherever applicable;
 - (A) **Appendix D – Forms**
 - (B) **Appendix E – Registers**
 - (C) **Appendix F – Returns**
- (2) Notwithstanding anything contained in these rules, all other forms, registers and returns are hereby deleted.
- (3) Format of every Form, Register and Return shall be generated through CIS.

ORDER 17

COMPLIANCE OF ORDER RECEIVED THROUGH E-MAIL

If, any order of any appellate court including High Court and Supreme Court is received through official email of the court concerned for compliance, same shall be complied after verification from the official website of concerned court by the court receiving the order for compliance.

Before compliance, the receiving court shall download the copy of the order from the official website of the concerned court and same shall be kept on record.

ORDER 18

A. FORM OF OATH OR AFFIRMATION TO BE MADE BY A JUDICIAL OFFICER

Every judicial officer appointed shall, before he/she enters upon his/her office, make and subscribe, before the District Judge of the District, or some person appointed in that behalf by him, where he/she has been posted, an oath or affirmation according to the format given below –

“ I.....<A.B.>..... having appointed do swear in the name of God/ solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established, that I will uphold the sovereignty and integrity of India, that I will duly and faithfully and to the best of my ability, knowledge and judgment perform the duties of my office without fear or favour, affection or ill-will and that I will uphold the Constitution and the laws.”

Oath administered by-
(Signature)

.....
(Signature)

B. Canons of Judicial Ethics

Following norms are being laid down by the High Court for guidance of all Judicial Officers. These norms are not statutory rules. However, in view of power of superintendence over Subordinate Courts conferred on the High Court by virtue of Article 227 of Constitution of India, these norms are being prescribed to be followed in letter and spirit by the Judicial Officers so as to make them good Judicial Officers. These are canons for professional and personal conduct of Judicial Officers and should be observed not only in discharge of their official functions but also in their private life, so as to avoid any conduct unbecoming of a Judicial Officer. These norms would help the Judicial Officers in maintaining good image expected from them by the litigants/general public. These norms are not exhaustive but are in the nature of general guidance and are in addition to the existence of the other equally imperative duties. These norms are in addition to and not in derogation of the conduct rules framed by the Governments.

1. The assumption of the office of Judicial Officer casts upon the incumbent duties in respect to his personal and professional conduct in relation to the State, general public, the litigants before him, advocates, witnesses, Court staff and other persons attending the Court.
2. Impartiality, honesty and integrity of a Judicial Officer are of utmost importance. A Judicial Officer should not only maintain absolute impartiality,

honesty and integrity, but should also carry such an image in the eyes of general public, litigants and Advocates and should command their absolute confidence. Dishonesty includes not only financial dishonesty, but also any extraneous consideration or reason in passing an order or judgment or otherwise dealing with any case. Judicial Officers should remain true to their oath in letter and spirit. They should not bow or succumb to any influence or pressure, particularly from the Bar members, in the discharge of their official functions. They should act faithfully and conscientiously and without fear or favour, affection or ill-will. We are governed by rule of law. Judicial Officers should not be influenced in any manner by the status of any litigant, witness or other person. They should uphold the majesty of law. Their personal and professional conduct and behavior should be beyond reproach and free from any impropriety and the appearance of any impropriety. Judicial Officers should promote justice and thus serve public interest for which the Courts exist.

3. Punctuality is the next important attribute of a Judicial Officer. Lack of punctuality by a Judicial Officer results in wastage of precious time of Advocates, litigants and witnesses and also adversely affects the image of the Judicial Officer.

4. Judicial Officers should be prompt in the performance of their official functions. Justice delayed is justice denied. Judicial Officers should, therefore, strive to administer justice efficiently and without undue delay. At the same time, care should be taken that quality of work is not adversely affected. Judicial Officers should be careful in their decisions. They should also maintain decorum and dignity in the Court.

5. The Judicial Officers should be temperate, attentive, patient, polite but firm, and impartial. They should be studious and diligent.

6. The Judicial Officers should not tolerate improper behaviour and conduct by Advocates, Clerks, litigants, witnesses etc. Good nature of the Judicial Officer should not be allowed to be construed as his weakness.

7. Every Judicial Officer should maintain cordial relationship with other Judicial Officers-seniors, colleagues and juniors. He should also be polite and courteous with Advocates, litigants and witnesses. Young and inexperienced Advocates should not be demoralized. He should also enforce similar courtesy and politeness on the part of Advocates, litigants and witnesses.

8. Unprofessional or improper conduct of any Advocate should not be tolerated and should be commented upon to correct the same. Any such serious matter (not trifles) should be reported at once to the High Court.

9. Trustees, receivers, liquidators, guardians and others persons appointed by a Judicial Officer in exercise of judicial function should have the strictest probity and impartiality and should be selected solely with a view to their character, suitability and fitness. The power should not be exercised for personal, partisan, communal or any extraneous advantage. Excessive allowances and fees should not be allowed to such appointees, even by the consent of parties or counsel.

10. The Judicial Officer should not deal with any case in which he has personal interest or he or his near relative is a party. He should not create an impression that he can be improperly influenced by any party or other person. He should act independently and should not be swayed by partisan or communal demands, public clamour or personal popularity or notoriety nor he should be apprehensive of unjust criticism or false and frivolous complaints.

11. A Judicial Officer should not exhibit undue interference, participation, impatience or harsh attitude during examination of witnesses. At the same time, he may properly intervene, wherever necessary, in the trial to promote expediency and to prevent unnecessary waste of time, or to clear some obscurity. While having necessary conversation with any counsel at the hearing of any case, the Judicial Officer should avoid unnecessary controversies. Ordinarily, Advocates should not be interrupted during arguments except to clarify some point. He should avoid premature expression of opinion.

12. Ordinarily, cases including applications for interim reliefs should not be heard ex-parte when the other party is being represented. When absolutely essential to hear some urgent application ex-parte, the Judicial Officer should scrupulously ascertain and examine the facts and principles of law and relief should be granted only when fully satisfied that the law permits and the emergency demands it. Temporary injunction should not be granted or refused lightly.

13. The Judicial Officer should not permit private interview, arguments or communications designed to influence his judicial action except in accordance with law. Written arguments presented by any party should not be concealed from the opponent.

14. Adjournments should not be granted lightly or merely at the asking. However, he should not be arbitrary in forcing an unprepared counsel to conduct trial unreasonably and unjustly.

15. In disposing of contested cases, a Judge should indicate the reasons for his decision in the order/judgment depicting application of mind. Serious arguments of counsel should not be omitted to be dealt with. He should avoid suspicion of arbitrary conclusion and should promote confidence in his intellectual integrity. Judgments and orders should be clear and concise.

16. Appellate or Revisional Courts should avoid passing strictures against the Lower Courts in the judgments/orders, but may write a separate note, if necessary, regarding their errors or defects, so as to guide them in future.

17. Personal opinion or consideration regarding substantial justice in a particular case should not influence the decision of the Judge. He has to decide according to law and not according to what should be the law in his opinion. He is not a depository of arbitrary power, but a Judge under the sanction of law.

18. A Judge should exercise discretion judiciously. He should adopt the usual and expected method of doing justice and should not be extreme, peculiar, spectacular or sensational. He should not compel persons brought before him

to submit to some humiliating act or discipline of his own devising, without authority of law, merely because he thinks that it will have a beneficial corrective influence. In imposing sentence, he should endeavour to conform to a reasonable standard of punishment and should not seek popularity or publicity by undue severity or leniency.

19. A Judge should avoid giving ground for any reasonable suspicion of misuse or abuse of power or prestige of his office. He should not persuade or coerce others to patronize or contribute, to any private business or to charitable entities. He should not use his office or name to promote the business of anybody nor he should solicit for charities. He should not enter into any business relation which might come in conflict with his official duties.

20. A Judge should abstain from making personal investments in enterprises which are apt to be involved in litigation in the Court. He should maintain his complete judicial impartiality. He should enjoy public confidence in his integrity. He should not utilize information coming to him in judicial/official capacity, for personal use or speculative investment etc.

21. A Judge should not accept or continue to hold any fiduciary or other position, if it would tend or seem to interfere with the proper performance of his judicial duties.

22. While entitled to have his personal views on political questions and enjoying his rights or opinions as a citizen, a Judge should not become promoter of the interests of any political party. He should avoid making political speeches, making or soliciting contributions to party funds or participation in party politics.

23. A Judge should not accept any presents or favours from litigants or prospective or potential litigants, or Advocates.

24. A Judge may not live in absolute seclusion or retirement. However, he should be very careful in socializing so as to maintain his high image and to avoid any suspicion in pending or prospective litigation.

25. In brief, in every particular, conduct of a Judicial Officer should be above reproach. He should be conscientious, studious, thorough, courteous, patient, punctual, just, impartial, fearless of public clamour, regular regardless of public praise, and indifferent to private, political or partisan influences; he should administer justice according to law, and deal with his appoints as a public trust; he should not allow other affairs or his private interests to interfere with the prompt and proper performance of his judicial duties, nor should he administer the office for the purpose of advancing his personal ambitions or increasing his popularity.

26. No Judicial Officer shall participate in a discussion programme on television or in radio broadcast, or publish a book, except with previous sanction of the High Court.

PART –II CIVIL

ORDER 19

(A) Summons and other processes

1. Parties to file summons—

- (a) A party shall file with the plaint, memorandum of appeal or an application requiring the issue of a summons/notice, a printed summons/notice form in duplicate, in the Devnagri, duly filled up except in respect of the date of appearance/hearing and date of issue of the summons/notice. The Court may also direct a party in any proceeding to file a summons or notice filled up as above to be served on the opposite party:
Provided that the Presiding Officer may in his discretion direct that such forms in general or any particular such form be filled up entirely in the office of the court.
- (b) Parties to make repeated efforts for service.— In the absence of any special order of the court, it shall further be the duty of such party to ascertain the service of summons or notices and to make subsequent applications for issue of summons/notices within, next 7 days of the return to the court summons or notices which has not been duly served.
- (c) Date to be filed by office.— In summons and notices the date of appearance/hearing and the date of issue shall be filled up by the office of the court and the Presiding Officer or the Munsarim or Reader, to whom such authority may have been delegated, shall sign the summons/notices and also put the date of signature.
- (d) Form to be legibly written and signed by parties.— The forms shall not be accepted unless filled up in a bold, clear and legible handwriting. The parties, their recognised agents or counsels shall sign the form in the left bottom corner, and will be responsible for the accuracy of the information entered in the forms.
- (e) Process to contain name of issuing court.— In every process or order issued or made by a Judicial officer, the names of the court and the officer issuing or making it, and of the place and the district where the court is located, shall be legibly written at the top.
Judicial Officers or Munsarims or Readers shall sign their names distinctly and legibly on such process or order, as the case may be. No such signature shall be made by means of a stamp.
- (f) Form of process.— Where there are printed forms available for any process, such forms shall invariably be used. Where there is a prescribed form but no printed copies are available, a process shall be written in a prescribed form. In cases where there is no prescribed form, a form prescribed for analogous, cases, if possible, shall be modified to meet the requirements of the particular case.
- (g) When translation to accompany process sent to other courts.— Where a process is sent to the court of a State where Hindi language is not in ordinary official use, such processes should be accompanied by an authenticated English translation of the same.

- (h) Cost of printed saleable forms to be taxed in decrees.— Cost of printed saleable forms filled by the parties shall be taxed in all decrees.

2. Time to be allowed in processes to Government Department—

In all processes issued in any suit or proceeding to which the Government, Court of Wards or a Railway Administration be a party, care shall be taken, that a reasonable time is allowed for communication between the authorities competent to give instructions to the counsel or agent authorised to represent them in court.

3. Process fee for notice in execution cases—

- (1) The process fee for issue of notice either under Rule 16 or Rule 22 of Order XXI shall be paid when the application for execution is presented. After service of notice, if the court directs execution to issue, the fee for attachment or arrest, as the case may be, shall be paid promptly and if the judgment-debtor's property is, after the attachment, ordered to be sold, the necessary sale fees shall be deposited.
- (2) Process fee deposited in previous execution not to be used in later execution.— When an application for execution of a decree has been disposed of and a fresh application is made, the process fee deposited in connection with the previous execution and not spent shall not be utilized for issue of a fresh process.

4. Postage for sending processes—

No charge for postage for transmission of processes from one court to another shall be levied from the parties, postal charges being paid by means of service postage stamps by the court forwarding or making return.

5. Endorsement on processes sent for service to other courts—

- (1) When a court sends a process for service or execution to any court beyond its jurisdiction, it shall endorse on the process a certificate that the fee chargeable under the rules has been levied.
- (2) When processes or summonses are issued in a language other than the Official Language of the receiving court, such processes or summons should be accompanied by an authenticated English translation.
- (3) The report from the receiving court to the originating court regarding the service or non-service of the process or summons should similarly be accompanied by an authorised English translation of the report.

6. Service of processes from other courts—

When a process bearing a certificate that the proper fee has been levied, is received by a court from another court in India, the court shall cause it to be served without further charge.

7. Particulars in record of court returning summonses—

The court to which the summons has been sent under Order V, Rule 21, shall retransmit it to the court by which it was issued together with—

- (1) the report of the Nazir's and the affidavit or examination on oath of the serving officer;
- (2) the record of further inquiry, if any, by such court;
- (3) where the service has been effected by affixation under Order V, Rule 17, a declaration by such court whether the service is sufficient or not.

8. Deposits of expenses of legal process to be sent to foreign countries—

- (1) Where a process is issued to any court outside India, the court issuing the process shall require the party at whom instance the process is issued to pay in cash (and not in court fee stamps), such fee for service as is required by the court to which the process is to be sent, and shall transmit the same to court, together with, in the case of summons to a witness, reasonable travelling and other expenses.
- (2) A process issued by any such court shall only be served upon receipt of the process fee chargeable, and of the expenses payable to the witness under Order XVI, Rule 2, the process fee thus received shall be expended in the purchase of court fees stamps to be affixed to the process.

(B) Process to Soldiers and Public Officers

9. Summons to soldiers, sailors and airmen—

A summons to a soldier, sailor or airman, as defendant or as witness, shall be sent for service to his Commanding Officer, together with a copy to be retained by the defendant. In such cases, sufficient time shall be given to admit of arrangement being made for the relief of the person summoned.

10. Summons to public officers or employee of Indian Railways—

A summons notice to a public officer (not belonging to Indian Military, Naval or Air force) or an employee of Indian Railways, or local authority as defendant or as witness, if it appears to the court that the summons or notice will most conveniently be so served may sent it for service to the head of the office where he is employed together with a copy to be retained by the defendant.

11. Intimation to head of office when summons sent to public officer or employee of Indian Railways—

In every case where a court fees fit to issue a summons direct to any public officer (not belonging to Indian Military, Naval or Air Force) or an employee of Indian Railways or local authority as a witness, simultaneously with the issue of the summons/notice in the prescribed form **(F.114)** shall be sent to the head of the office in which the person summoned is employed, in order that arrangements may be made for the performance of the duties of such person.

12. Intimation to head of office when summons sent to public officer etc—

Where a public officer or an employee of Indian Railways or local authority or soldier, sailor or airman has been summoned under Order V, Rule 3, to appear in person through the head of the office or the Commanding Officer, in the forwarding letter in the prescribed form

(F.115) or in a note on the summons, it shall be stated that the summons should be regarded by such head of the officer or Commanding Officer also as notice to make arrangement for the performance of the duties of such public officer or soldier, sailor or airman, during his absence.

13. Public Officer summoned for personal appearance—

Neither of the preceding two rules apply where an officer or a soldier, sailor or airman in the Military, Naval or Air Force of the Union of India or a public officer or an employee of Indian Railways or local authority is summoned as a defendant under Order V, Rule 1. In such cases he shall make his own arrangements if he wishes to appear in court in person.

14. Sufficient notice to be given for enforcement of personal attendance of a public officer—

Before the personal attendance of an officer holding a responsible post is enforced the Presiding Officer shall satisfy himself that his attendance is necessary. If such officer is summoned away from his district, sufficient notice shall be given to him and to his immediate superior to enable arrangements to be made for the discharge of his duties in his absence.

15. Warrant for arrest of public servants or Railway servants—

- (a) No warrant of arrest shall ordinarily be executed against any Government servant until notice in the prescribed form **(F.116)** of the intended arrest has been given to the head of this office.
- (b) No warrant of arrest shall be executed against any employee of Indian Railways or any person working on Railways in the service of a contractor till notice of the intended arrest has been given to the proper officer of the Railway or to the contractor or his representative.

(C) Service of Processes

16. Establishment of process-servers—

There shall be one general establishment of peons under the immediate direction of the Nazir incharge for the service of processes issued by all courts for service within the local jurisdiction of the courts located at the same station.

17. Number of processes to be served annually by a process-server—

Subject to any orders of the High Court, the normal establishment of peons shall be at the rate of one peon for an annual average of 600 processes issued. An emergent processes or a day occupied by a peon on duty other than of process serving shall be reckoned as equal to three processes.

18. Process-servers to be properly dressed—

It shall be the duty of the Nazir incharge to see that the process servers are in uniform and wear their badges, belts and satchels.

19. Processes to be delivered to whom for service—

Every process issued or received by a court for service within the area covered by the process serving organisation at the station where such court is located shall be delivered to the Nazir incharge for service.

20. The Nazir to be deemed the serving officer of the court sending the process—

The Nazir to whom the process is sent and the preceding rule shall be deemed the serving officer of the court from which he receives the process, and shall forward direct to such court in the case of a summons the return prescribed by Order V, Rule 18, and in the case of a warrant for arrest, the judgment debtor, if arrested and any decretal money received from the judgment-debtor.

Note:— A Nazir may Serve a process himself but ordinarily should get processes served by process servers.

21. Processes for serving outside the area—

Where any process is issued for service outside the area covered by the process serving organisation at the station where the court issuing the process is located it shall be sent to the Judge concerned :

Provided that, if the process is for service within the local jurisdiction of the court issuing it,—

- (a) warrants of arrest,
- (b) urgent processes,
- (c) any other process which, in the particular case, it is advisable to serve or execute by a headquarter's peon may be delivered to the Nazir incharge at headquarter for service by a headquarter's peon.

22. Nazirs list of inhabited places—

Every Nazir incharge shall maintain for the Jurisdiction for which he is the serving officer:—

- (a) a list of all inhabited places within ten kilometer radius of his office;
- (b) a list of all inhabited places outside such ten kilometer radius;
(An "inhabited place" for the purpose of this rule means a place containing inhabitants and having a distinctive name.)
- (c) a map of the area in the territorial jurisdiction of the court of which he is Nazir; and
- (d) a map showing the beats fixed by the Nazir for process-servers under his control.

23. Beats of area outside five mile radius—

(1) The Nazir incharge shall divide the area outside the five mile radius into beats, shall make the best beats, and shall make the best arrangement possible for the prompt service of processes in each beat.

(2) The Nazir incharge shall prepare a statement showing—

- (i) the number of the beats,
- (ii) the names of the tehsil and villages included in the beats,
- (iii) the day or days of the week on which processes are issued in the beats, and
- (iv) the number of process-servers posted to each beat.

The allotment of process-servers to the various beats shall be done by the Judge incharge every year but on special reasons a process-server may be transferred from one beat to another earlier also.

A copy of such statement after it has been approved by the District Judge shall be supplied to each court and kept in the court room with a view to dates being fixed in accordance therewith.

- (3) Processes almirah and distribution of processes.— In the office of the Nazir incharge, an almirah shall be divided into as many (or more) pigeon-holes as there are beats, with spare holes for urgent processes etc., and each process as soon as it is received shall be placed in its appropriate pigeon-hole. The processes shall be issued on the day fixed and on other days also if so ordered by the officer in charge of the Nazarat for any particular reason.

24. Issue of emergent processes—

Emergent processes shall be issued for service on the day they are received by the serving officer or on the next day.

25. Priority to process servers with long stay—

In distributing processes to the process-servers, priority shall ordinarily be given to the process-server or process-servers who have longest been at headquarters.

26. Processes from foreign courts—

A process received for service from foreign courts shall be shown in red ink in the register of processes, and the Nazir incharge shall place the register once a week before the Munsarim of the District Judge's Court or the Munsarim or Reader of his Court, as the case may be, who shall mark the last entry in the register and put his initials thereto indicating that he has checked all the entries and issued necessary orders for obviating delay.

27. Attendance of process-server—

An attendance register of process-servers shall be kept and the roll shall be called every morning at 10 A.M. or during summer hours at 7:30 A.M.

28. Diaries of process-servers—

Every process-server shall keep a diary, containing a copy of this rule on the first page, in the prescribed form (**Register No.231**) wherein shall be recorded day by day in column 2.

The time period and purpose of his attendance, in the Nazir's office or in court the duties performed, places visited by him together with the time spent therein and stopping place for the night when away on duty from his headquarters and in column 3 the signature of the Nazir of a court, or of the Patwari, Sarpanch, Panch or other respectable person of the places visited, as the case may be, in attestation of the contents of column 2.

29. Service by special messenger—

A process may be executed by a special messenger -

- (1) in the case of a warrant for the arrest of a person,
- (2) in any other case in which a court either suo motu or otherwise, records an order that, for the convenience of the parties or for some other reason, it is expedient that such process shall be executed by a special messenger. A special fee shall be payable for such "emergent service". The court shall, at the time of passing the

order, declare by whom the fee shall be paid and whether it shall be included in the costs of the suit or be charged to a particular party.

30. Conveyance for emergent service—

In addition to the special fee payable for an emergent process the court may direct payment by the party concerned of requisite railway fare, conveyance charges or any other incidental charges.

31. Prompt service of processes—

The Nazir shall arrange for the prompt issue and service of all summons to witnesses received by him having regard to the dates fixed for the attendance of such witnesses.

32. Mode of service of processes—

The provision of the Code relating to the service of summons etc. should be carefully complied with. Attention is drawn in particular to Order V, Rules 16, 17 and 18 and Form No. 11, Appendix 'B' of the Code as also Order III, Rule 5 of the Code.

The process-server should, as far as possible prepare his report on the spot, and attestation of the service should be obtained wherever possible from two respectable residents of the locality in a town or from Sarpanchs and Panchs, Patwaris or neighbours in a village.

⁸Provided that service of any process shall be deemed to be sufficient if it is effected through registered email ID, SMS or fax number of the party or through any other electronic mode including mobile application.

Note:— It should be impressed upon the process-servers that it is their duty and not of the party concerned unless specially directed by the court in any particular case to find out the person on whom the process is to be served. It is not necessary for the party to accompany them for identifying that person. They should seek the assistance of the village Sarpanch, Panch, Patwari, etc., to find out the person on whom the process is to be served.

33. Sufficiency of service and re-issue of processes—

When a process is received back with a service report as contemplated under Order V, Rule 17 of the Code, it shall be promptly laid before the court for orders under Order V, Rule 17 of the Code. A fresh service on payment of necessary process fee shall ordinarily be ordered if there is sufficient time for such service to be effected.

[Deleted]⁹

⁸ Inserted vide Notification No. 03/S.R.O./2020 dt. 02.09.2020 Pub. in Raj.Gaz.Ext.Pt-I (b)dt.18.09.2020
⁹ Proviso deleted vide Notification No. 03/S.R.O./2020 dt. 02.09.2020 Pub. in Raj.Gaz.Ext.Pt-I (b) dt.18.09.2020

ORDER 20

SUITS AND APPEALS IN GENERAL

(A) Applications and Pleadings

1. Presentation and Registration-

- (a) All pleadings, applications, petitions and any other relevant paper of whatsoever nature filed in the course of judicial proceedings shall be fairly and legibly printed in double space on stout durable papers of foolscap size in Hindi / English; duly paginated, indexed and stitched together in paper book form; both sides of the paper shall be used, and a quarter margin, together with at-least one & half inch of space at the top and bottom of each sheet, shall be left.

Provided that if any pleading, application, petition or paper is filed in English, the same shall be accompanied by Hindi translation thereof.¹⁰

- (b) Presentation shall be made before such official appointed by the court or by the District Judge to receive such presentation.
- (c) Regular registration number shall be assigned only to those cases as enumerated in Register No.238, 239, 240, 242, 245, 246, 247 and 248 respectively (see Order 27 Rule 1, 2 & 3).
- (d) No such presentation shall be made across the Dais during court hours.
Provided, that such presentation may be made in the court on the ground, of limitation, or other urgent reason, if any.
The Presiding Officer when accepting such presentation during court hours or after court hours will make a note on such papers, the time of presentation.
- (e) At the time of presentation, every person shall also file an email ID and Mobile Number where service can be effected. Such person shall also file an undertaking stating therein that any service transmitted electronically on such email ID or mobile number, shall be deemed to be sufficient service on such party concerned.
- (f) At the time of presentation, the following entries shall be made by the official concerned:-
(i) date and time of presentation,
(ii) name of presenter,
(iii) classification of record,
(iv) court fee paid.

2. Heading of pleadings and applications—

In every pleading or petition, the names of parties shall bear consecutive numbers, and a separate line shall be allotted to the name and description of each person.

3. Person presenting application—

¹⁰ Proviso in Sub rule (a) of Rule 1 inserted vide Notification No. 01/S.R.O. /2020 dt. 27.02.2020 in Raj. Gaz. Ext. Part-I (b)

Every application or petition shall at the time of presentation bear the name and also full signature or thumb-mark of the person actually presenting the same together with the date of presentation.

4. Separate applications for distinct subject matters—

Separate applications shall be made in regard to distinct subject matters.

5. Persons from whom applications may be received—

Except an application for a copy, no application or petition and no pleading required or authorised by law to be made by a party in a court, shall be received from any person other than the party himself, his counsel, or his recognized agent (See Order III, rules 1 and 2 of the C.P.C.).

Registered clerks of counsel, as such, can present such applications as they may be authorized to present by the rules concerning such clerks.

6. How to deal with applications received by post—

Except as otherwise provided in any other law, an application, not being an application for a copy, petition or pleading received through post shall be returned to the sender with a note that it should be presented according to Law; provided that necessary postage stamps have been received with such application, petition or pleadings, otherwise it shall be filed in a file book.

7. Valuation to be noted on petitions—

In every suit, memo of appeal, revision or petition on which an appealable order may be passed by the court, the plaintiff, appellant, revisioner or the petitioner (as the case may be) shall give the value of the subject-matter affected thereby.

8. Time for presenting applications—

Except as otherwise provided by these Rules, applications and petitions which can be presented to the Munsarim or Reader of a court shall be received on any day other than a holiday between 10.30 A.M. to 12.30 P.M. and during summer hours between 7.30 A. M. to 9.00 A. M.:

Provided that an application or petition presented after such hour and before 4.30 P. M. or 12 noon, as the case may be, may be received on the ground, if any, of limitation or other urgent reason. Presiding Officers when accepting plaints or applications after court hours will note on such papers the time of their presentation.

9. Order other than routine one to be made in Judge's notes—

No orders except routine orders are to be recorded on the applications themselves. All orders other than routine orders passed on applications are to be recorded in the order-sheet except when they are recorded separately in that event a reference thereof shall be made in the order-sheet.

10. Duty of Munsarim or Reader in respect of plaints—

On receiving a plaint, application or appeal in the concerned court, Munsarim or Reader of a Courts appointed to receive plaints shall

examine each plaint presented to him, and shall report thereon whether the provisions of the Code and the Court Fees Act have been observed and whether the claim is within the jurisdiction of the court, constitutes a cause of action, and has been presented within the period prescribed for the institution of such a suit.

The Munsarim or Reader shall see that the actual date of the presentation of the plaint is entered upon the impressed stamp and adhesive label or e-stamp, as the case may be, below the date of purchase endorsed on them.

On the back of all plaints the Munsarim or Reader, shall note:—

- (a) date and time of Presentation of the plaint,
- (b) name of presenter,
- (c) classification of suit, and
- (d) court fee paid.

11. Opposite party to be given copies of written statement etc—

The party filing any of the following papers in a case, other than a case of a Small Causes Court nature, shall file a written acknowledgment from the opposite party or his counsel of having received a copy thereof, and also of the affidavit, if any, accompanying such paper :—

- (i) a written statement,
- (ii) an objection under section 47 or under Order XXI, Rule 58 of the Code,
- (iii) an application for the amendment of any pleading,
- (iv) an application for the appointment of a Receiver or a Commissioner,
- (v) an application for the amendment of a decree,
- (vi) an application for remitting or setting aside an award and an objecting to an award:

Provided that the Presiding Officer, if he is of opinion that a copy of any other paper should also be supplied to the opposite party, may pass such orders about the copy being furnished to the opposite party as he deems fit.

12. How to make amendments in pleadings—

- (i) An application for amendments made under Order I Rule 10, Order VI Rule 17 or Order XXII of the Code shall also contain all consequential amendments. The application if it is not in accordance with these rules shall be liable to be rejected.
- (ii) When a party died pendente lite, a note to that effect shall be added against the name of party and necessary consequential amendment in the body of the petition or pleading shall also be made as prayed under sub-rule (i).
- (iii) When the heirs of a deceased party are substituted for him they shall be entered and numbered as follows:—

If the serial number of the deceased party was say "3", his heirs will be numbered as 3/1, 3/2, 3/3 and so on. If suppose party numbered as 3/1/1, 3/1/2, 3/1/3 and so on.

13. Returns of petitions and plaints—

No applications which are filed during the pendency of the certain proceedings shall be returned for presentation to the proper court.

14. Return of Vakalatnama with plaint—

When a plaint is returned to a counsel or recognised agent of the plaintiff, the authority executed in his favour shall also be returned to him.

When returning a plaint for presentation to proper court, a court may order the plaintiff to file a copy of the plaint duly authenticated to be put on record in place of the plaint.

(B) Documents

15. Translation to be filed with certain documents—

Every document produced by a party or his witness not written in Hindi or in English shall be accompanied by a correct translation of the document into Hindi written in the Devnagri script. The translation shall bear a certificate of the party's counsel to the effect that the translation is correct. If the party is not represented by a counsel, the court shall have the translation certified by any person appointed by it in this behalf at the cost of the party concerned.

16. Opposite party to record admission or denial on documents—

A party desiring to produce any document in court shall, before producing it in court, obtain admission or denial recorded on the document by the opposite party's counsel. If the opposite party is not represented by a counsel, the court shall get admission or denial recorded by the party in its presence and may for the purpose, examine the party.

17. List to accompany all documents whensoever filed—

The list of documents required by Order VII, rule 14 and Order XIII, rule 1 of the Code, shall be in the prescribed Form **(F.117)** and no document, whensoever produced, shall be received unless accompanied by the said form duly filled up. In the case of a document produced by a witness or person summoned to produce a document, the form shall be supplied by the party at whose instance the document was produced. The list as well as the documents shall be immediately entered in the general index in the prescribed Form **(F.118)**.

18. Statement about erasures and additions—

Whenever any private document, other than a registered document or certified copy, containing erasures, additions or interlineations is produced by a party to a case it shall be accompanied by a statement clearly describing each such erasure, addition or interlineation and signed by such party. Reference to such statement shall be made in the list **(F.117)** with which the paper is filed.

19. Small documents and those of historic value—

Small documents when filed in a court shall be filed pasted on a paper equal to the size of the record, and the margin of the paper should be stitched to the file so that no part of the document is concealed by the stitching. If a document contains writing both on the front and the

back it should be kept in a separate cover which should be stitched to the file at the proper place leaving the main document untouched.

Note : Care should be exercised in dealing with documents of historic or antiquarian value, and every possible endeavour should be made to prevent their being defaced by endorsement or exhibit marks or by having the seal of the court impressed on them.

20. Safe keeping documents in decaying condition—

Whenever a document produced in a court is found to be in decaying condition on brittle paper or on such other which is likely to give way in the process of handling, a transparent paper on one or both sides as the circumstances may require, should be pasted so as to minimize chances or any portion of it getting detached. This should be done in such a manner that the contents of the documents do not become obscure or obliterated. If necessary, it should be placed in a cover of the size of the document and then properly stitched to the file.

21. Affidavit to accompany an application for of public record—

When a party requires the production of a public record, the application shall, unless the court otherwise directs, be accompanied by an affidavit showing how the party requiring the record has satisfied himself that it is material to the suit and why a certified copy of the document cannot be produced or will not serve the purpose.

22. Documents for production of which sanction of Head of Department is necessary—

When a court decides that in the interests of justice it is necessary that it should have before it a document which cannot be produced without the sanction of the Head of the Department concerned, it shall in its order asking for such document, set out as clearly as possible; (a) the facts, for the proof of which the production of the document is sought; (b) the exact portion or portions of the document required as evidence of the facts sought to be proved. The court summoning the document shall fix a date for its production, which should not be less than three weeks from the date of issue of summons.

23. Registers from Sub-Registrar' s Office—

- (1) A summons for the production of any register or book belonging to the office of a Sub-Registrar shall be addressed to the District Registrar and not direct to the Sub-Registrar.
- (2) Production of Police diaries.— A summons for the production of documents in the custody of the police should be addressed to the Superintendent of Police concerned, and not to the Inspector General.
- (3) Production of other documents.— When duly authenticated and certified copies of documents are admissible in evidence, the Court shall not send for original records unless, after perusal of copies filed, the court is satisfied that the production of the original is absolutely necessary.

24. Summoning of Settlement Records and records of Judicial or quasi-Judicial Tribunals—

When a court requires the production of any settlement record in which the Settlement Officer acted in a judicial capacity, it shall be

summoned in the manner provided by Order XIII Rule 10 of the Code. Similarly when a court requires the production of any record of Judicial or quasi-Judicial Tribunal, it shall be summoned in the manner provided by Order XIII Rule 10 of the Code. In other cases the procedure prescribed in Order XVI Rule 6 of the Code shall be followed.

The summons to produce such documents shall be issued to the Collector or the Settlement Officer, who has custody of the record, who may send the documents by messenger or registered post.

25. Production of documents in the custody of Parliament or State Legislature—

In all suits and other proceedings where a document in the custody of Lok Sabha/ Rajya Sabha/ Legislative Assembly/Legislative Council is required to be produced before a court or an officer of the Secretariat of the House is required to appear before the court for purposes of giving evidence instead of sending of summons in the ordinary form, a letter of request in the prescribed form (**F.119**) shall be sent.

26. Payment of postage fee, etc—

The payment of postage and registration fees, or of travelling and other expenses for messengers, incurred in the transmission of, or requisition for records, shall be paid ordinarily by the party at whose instance the expense is incurred.

27. Covers of documents received by registered post to be retained—

When a document of any kind connected with a judicial case is received under a registered cover, the cover shall not be destroyed but shall be attached to the file of proceedings in the case to which the document refers.

28. Documents produced how to be dealt with—

All document produced must be received by the court and must be dealt with in one or other of the following ways, viz.—

- (a) returned,
- (b) placed on the record, or
- (c) impounded.

29. Duty of court upon production of documents—

The court shall inspect and consider all documents as soon as possible after issues are framed and before evidence is produced and shall—

- (a) Where they are held by the court under Order XIII Rule 3 of the Code to be irrelevant or otherwise inadmissible, forthwith reject them.
- (b) Where not rejected under order XIII Rule 3 of the Code, and held to be relevant and admissible in evidence, dealt with them as follows:—
 - (1) Documents, which do not require proof e. g. public documents and documents admitted by the party against whom they are produced in evidence shall be admitted in evidence and marked as exhibits in the manner prescribed in Rule 28.

- (2) Documents which required proof by oral evidence shall be kept on the record pending proof. They shall be admitted in evidence and marked as exhibits in the manner prescribed in rule 28 when evidence is tendered in proof of them. They shall be returned at the close of the evidence if no evidence is tendered in proof of such documents.

Note:— The endorsement referred to in Order XIII Rule 4 of the Code shall be made on the documents which are admitted in evidence. No document shall be marked as an exhibit unless it is admitted in evidence.

30. Admission of genuineness not to be confused with admission of truth of contents—

When a certified copy of any private document is produced in a court, inquiry shall be made from the opposite party whether he admits that it is a true and correct copy of the document which he also admits, or whether it is a true and correct copy of the document which he denies, or whether it is a true and correct copy of the document the genuineness of which he admits without admitting the truth of its contents, or whether he denies the correctness of its contents, or whether he denies the correctness of the copy as well as of the document itself.

31. Proper expression about admissions of documents—

Admission of a document by a party shall be indicated by the endorsement "Admitted by the plaintiff" or "Admitted by the defendant". Admission of a document in evidence by the court shall be indicated by the endorsement "Admitted in evidence". If any question is raised as to the correctness of a copy and the Correctness of it is admitted, the endorsement shall be "Correctness of copy admitted". The use of the expression "Admitted as a copy" in endorsement on documents is prohibited.

32. Endorsement on documents in suits compromised or dismissed for default—

Documents filed in suits which are dismissed for default or compromised shall before being dealt with in the manner provided in Rules 36 and 36 be endorsed with necessary particulars mentioned in Order XIII Rule 4 (1) of the Code.

33. Marking of documents—

- (1) Documents produced by a plaintiff and duly admitted in evidence shall be marked with a number, and documents produced by a defendant shall be marked with a number and the letter A, or, where there are more than one set of defendants, by the letter A for the first set of defendants, by the letter B for the second and so on, Where a document is produced by order of the court and is not produced by any party, the serial number shall be prefaced by the words "Court Exhibit" or an abbreviation of the same.
- (2) Where a document is produced by a witness at the instance of a party the number of the witness shall be endorsed thereon e. g. Ex. 1/P.W. 1 it is produced by the plaintiff's first witness, and Ex. A. 1/D.W. 1 if it is produced by the defendant's first witness.

- (3) Every exhibit mark shall be initialled and dated by the Presiding Officer.

34. Marking of documents of the same nature—

Where a number of documents of the same nature are admitted, as for example a series of receipts for rent, or a series of entries in the same account book, the whole series should bear one figure or capital letters, a small figure or letters in brackets being added to distinguished each paper of the series.

35. Return of certain documents—

A document which is rejected as irrelevant or otherwise inadmissible under Order XIII, Rule 3 of the Code, shall unless impounded under Order XIII, Rule 8 of the Code, be returned to the person producing it or to his counsel, and such person or counsel shall give a receipt for the same in column 7 of the list of documents filed.

36. Retention of impounded and certain other documents—

- (1) Documents impounded shall be dealt with in accordance with Order XIII, Rule 8 of the Code, and the "Impounded" should be noted in red ink across appropriate columns of the list of documents filed against the entries relating to such documents in the said list.
- (2) Should either party or his counsel entitled to receive a document, under rules, be absent or for good cause unwilling to receive it, it shall be marked "not part of the record", a note of the same being made in appropriate column of the list of document filed.

37. Care of impounded documents—

- (a) No document which the court has ordered to be impounded or which is required by law to be filed and preserved (for instance a will under section 294 of the Indian Succession Act No. XXXIX of 1925) shall be allowed to pass out of the custody of the court and no document produced for the purpose of comparison of signature, writing or seal shall be returned within the periods specified in Order XIII, Rule 9(1).
- (b) With reference to Order XIII, Rule 9 (1)(b) of the Code an interval of four months shall ordinarily be allowed to intervene from the date of decree before the documents whether original or copies, filed in a case are returned to the parties who produced them.

38. Cost of proving documents—

When a party has, without good reason, refused to admit the genuineness of a document, the court may order it to bear the cost incurred in proving it, irrespective of the result of the suit or proceeding.

39. Return of documents—

A general notice shall be pasted in a conspicuous part of every court house, giving warning that all documents filed in any suits or proceeding which may legally be returned, must be withdrawn as soon as the decree or order made in the suit or proceeding has become final

or after four months of the decree or order, whichever is longer, and that if they are not so withdrawn they will remain at the risk of the persons concerned.

40. Books of Business—

If a document be an entry in a letter book, a shop book, or other account in current use or an entry in a public record, produced from a public office or by a public officer, a copy of the entry, certified in the manner required by law, shall be substituted on the record before the book, account or record is returned, and the necessary endorsement should be made thereon, as required by Order XIII, Rule 5.

41. Certain cases of Registration of documents to be reported to the District Registrars or Inspector General of Registration—

The Presiding Officer of all Courts shall inform to the District Registrar of their Districts, all cases which came before them in which there is reason to believe that there has been misconduct, negligence or irregularity on the part of the Registering Officers in the registration of any document tendered in evidence or otherwise coming before the Courts. If Registering Officer is the District Registrar, the Presiding Officer of the Court may inform the Inspector General of Registration.

(C) Commission

42. Commissions to be issued to whom—

- (1) A commission for the examination of any person shall ordinarily be issued to Counsel practicing either before the court issuing the commission or before the court within whose jurisdiction the witness resides. Such commissions may, if it is considered desirable, also be issued to a court (not being a High Court) within the local limits of whose jurisdiction the witness resides.
- (2) A commission for making a local investigation necessitating the taking of evidence shall ordinarily be issued to a counsel, and in cases requiring some special and technical knowledge, to a person possessing the necessary technical and special knowledge.
- (3) A commission to examine accounts may be issued to any person (including a legal practitioner) who is a competent accountant.

¹¹42A. Appointment of Commissioner to assess the accurate description and status of property.-

In appropriate cases, where the possession is not in dispute and not a question of fact for adjudication before the Court, the Court may appoint Commissioner to assess the accurate description and status of the property. The cost of the commission is to be borne by the parties.

43. List of Commissioners.—

- (1) Every District Judge shall maintain a separate list of legal practitioners for each place where any court or courts are located authorized to execute commissions. The lists shall be prepared by the District Judge in consultation with the Judicial Officers of

such places. The list may be sub-divided into three parts, namely, for accounts, for survey, and for all other purpose. The number of commissioners in each part shall be fixed by the District Judge.

Care shall be taken to include in the list of Commissioners for survey and accounts only those who are conversant with such work.

The list of Commissioners in the prescribed form (**Register No.232**) shall be maintained in the office of the District Judge at the headquarters and of the Senior most Judicial Officer at other places, and all commissions issued shall be entered in (**Register No.233**). Commissions shall be issued in strict order of rotation in respect of each part unless there are reasons to the contrary. No commission shall be issued to any person whose name is not entered in these lists except for special reasons. The lists shall be revised once a year.

- (2) Munsarims, Nazirs, Copyist, Ahlmads, Counsel's clerks and petition writers shall not be employed as Commissioners.

In the case of protected investigation, which extends beyond the time originally calculated, the court may suspend the commission until a further sum sufficient to cover the additional expense is paid into court.

- (3) The court shall ordinarily require the party asking for the issue of a commission to deposit a fee (to be fixed by the court) before the issue of the commission. The fee shall be fixed with due regard to the circumstances of the case and the status of the Commissioner.

In the case of protected investigation, which extends beyond the time originally calculated, the court may suspend the commission until a further sum sufficient to cover the additional expense is paid into court.

- (4) The legal practitioners to whom commission is issued for examination/ cross examination of witness, for payment of remuneration to them the court should expect from concerned party to pay such amount, which is reasonable in the facts of the case, but it's minimum and maximum limit shall be Rs.200/-¹² and Rs. 500/-¹³ respectively.
- (5) Where a commission cannot be executed for reasons beyond the control of the commissioner, the court may order payment of such fees as may appear to be reasonable, with due regard to the time spent by the Commissioner.
- (6) Where any official of a court is required to take the record of a court for the purpose of execution of an order of commission, the official carrying such records shall be paid by the person at whose instance the order for commission was issued, Rs. 25/-¹⁴, in addition to the actual travelling and diet expenses, if any.

44. Prohibition of commission fees to Government Officers—

The acceptance by Judicial Officers or Ministerial Officers of Courts of Fees for executing commissions, is prohibited.

45. Particulars to be given in the order for local investigation—

¹² . Substituted vide Notification No. 01/S.R.O./2020 dt. 26.02.2020 Pub. in Raj.Gaz.Ext.Pt-I (b)dt.27.02.2020
¹³ . Substituted vide Notification No. 01/S.R.O./2020 dt. 26.02.2020 Pub. in Raj.Gaz.Ext.Pt-I (b)dt.27.02.2020
¹⁴ . Substituted vide Notification No. 01/S.R.O./2020 dt. 26.02.2020 Pub. in Raj.Gaz.Ext.Pt-I (b)dt.27.02.2020

When issuing a commission for making a local investigation under Order XXVI Rule 9 of the Code, the court shall define the points on which the Commissioner has to report. No point which can conveniently and ought to be substantiated by the parties by evidence at the trial shall be referred to the Commissioner.

46. Time for executing Commissions—

A reasonable time shall be fixed for execution of every commission and the court shall see that it is executed within such time unless the court for sufficient reason extends the time.

47. Payment in advance of expenses for issue of commission—

- (1) Whenever a commission is issued to any court, the court issuing the same shall require the party applying for issue to pay into court before issue—
 - (a) Where such witness is to be examined by a court, the travelling and other expenses likely to be incurred by the witness;
 - (b) in other cases such additional sum also as it may consider necessary for the employment of a legal practitioner by the court to which the commission is issued.
- (2) The court issuing the commission may require the party concerned to deposit such further amount as the court to which the commission is sent may lawfully require.
- (3) Moneys thus deposited shall be entered in the Register of petty Receipts and Repayments.

48. Commissioner's responsibilities—

A Commissioner shall in his report always give reasons or data on which he bases his opinion.

A Commissioner shall not issue copy of any map or report prepared by him or of evidence taken by him or of any portion thereof, to any party.

49. Local inspections by Presiding Officers—

When a Presiding Officer of a court considers it necessary to make a local inspection, it shall invariably during the inspection or as soon as is convenient thereafter, record a note to be placed on the file, the purpose of the inspection and all facts perceived or impressions received in the course thereof which are likely to affect its decision in the case. This note shall as far as possible be prepared in the presence of parties or their counsel. Where this is not possible the parties or their counsel shall be informed of it.

Where a Presiding Officer decides to make a local inspection on the request of a party or both the parties, he should require the party or parties concerned to deposit in court an amount sufficient to cover his travelling allowance according to the rules. Such amount shall be entered in the Register of Petty Receipts and Repayments of the court and the Presiding Officer shall be entitled to draw his travelling allowance admissible under the rules after having his claim passed by the District Judge. But when the District Judge makes such inspection, it shall not be necessary to have his bill passed by any authority and he may himself draw the amount.

50. Commissions letters of requests etc. to foreign courts—

Letters of request of commissions and other judicial documents meant for foreign or common-wealth countries shall be sent to Ministry of External Affairs and Commonwealth Relations Government of India, New Delhi through the High Court.

When issuing such commission the court shall have such funds deposited by the party at whose instance the commission is issued, as may, in the discretion of the court, be considered sufficient to defray the expenses likely to be incurred by the executing court. An undertaking should also be taken from the party concerned to pay such further sum as may be wanted by the executing court.

(D) Affidavit

51. Persons to verify affidavit—

- (a) Munsarims, or the Reader as the case may be, of all courts, may verify an affidavit.
- (b) A court-fee label of Re. 1/- shall be affixed to each affidavit verified before Munsarim or Reader for filing in the court. This provision shall only be resorted when Oath Commissioner is not available.
- (c) Munsarim or Reader, as the case may be, shall maintain a Register (**Register No.234**) which shall contain the following particulars with respect to each affidavits, sworn before him, namely:—
 - (a) serial number;
 - (b) date and time of making the affidavit;
 - (c) particulars of the case to which the affidavit relates;
 - (d) full particulars of the person making the affidavit;
 - (e) particulars of the person identifying him;
 - (f) valuation of the stamp affixed on the affidavit; and
 - (g) signatures of the Munsarim or Reader.

52. Powers of District Judge to appoint lawyers to verify affidavits—

- (1) A District Judge may appoint legal practitioners to administer oaths to declarants.
- (2) The fee chargeable by the Oath Commissioner so appointed shall be Rs. 10/- for each affidavit for all the Courts. Such fees paid to an Oath Commissioner shall be taxed in the decree.
- (3) Oath Commissioners shall maintain a register or registers (**Register No.235**) which shall contain the following particulars with respect to each affidavit, sworn before them, namely :-
 - (a) serial number;
 - (b) date and time of making the affidavit;
 - (c) particulars of the case to which the affidavit relates;
 - (d) full particulars of the person making the affidavit;
 - (e) particulars of the person identifying him;
 - (f) fee paid;
 - (g) name of the Oath Commissioner before whom the affidavit is sworn; and
 - (h) signature of the Oath Commissioner and remarks, if any.
The Registers shall be inspected periodically by the Presiding Officers of the courts concerned.
- (4) Every person swearing an affidavit shall, if not personally known to the person before whom the affidavit is sworn, be identified before that person by someone known to him, and in such case

the person before the affidavit is made shall state at the foot of the affidavit the name, address and description of the person by whom such identification was made.

Such identification may be made by a person:—

- (a) Personally acquainted with the person to be identified;
- (b) who is reasonably satisfied as to his identity:

Provided that in the latter case the person so identifying shall sign at the foot of the affidavit a declaration in the following form, after there has been affixed to such declaration in his presence, the signature or thumb-impression of the person so identified namely—

Form of Declaration.

I (name, description and address) declare that I am satisfied on the grounds stated below that the person making this affidavit and alleging himself to be A.B. is that person, Grounds

- (5) Oath commissioner shall at their own expense provide themselves with an official seal to be made under the direction of the court which appointed them as Commissioners. This should indicate the name of the court to which the Commissioner is attached and shall provide space for recording the serial number and date of the entry relating to the affidavit in the Commissioner's register.

This seal shall be surrendered to the court when the person having such seal ceases to hold the office of an Oath Commissioner.

(E) Adjournments

53. Priority in cases to which soldiers, sailors or airmen are parties—

- (1) No case in which witnesses are present shall be allowed to stand out of its place in the list except for special reasons to be recorded by the Presiding Officer under his hand:

Provided that every court shall bring to a hearing without regard to the order in which they may have been filed all suits in which an officer, soldier, sailor or airman or person who may have obtained leave of absence from the Army, Navy or Air Force, may be a party and shall decide such suits as speedily as may be convenient and consistent with the due administration of justice. (To be shifted)

- (2) Priority to cases which are holding up other cases.— Suits, appeals or applications for the decision of which other cases have been held up shall be given priority, and they shall on no account be adjourned except for good reasons.

54. Priority to cases involving matters of public importance—

On a certificate being given by the Government Advocate, Additional Government Advocate that particular matter is of urgent public importance and should be disposed of at the earliest in public interest, the court shall examine the matter, and if satisfied about its urgency, shall give it top priority and it shall be heard and disposed of as early as possible. (To be shifted)

55. Priority to cases (uncontested)—

A Judge shall before beginning his work for the day go through the cause list and ordinarily dispose of all uncontested work, first and then begin the contested work.

56. Fixing of date—

The first date of hearing in a case shall not ordinarily be fixed more than two months ahead. But in a case in which the Government, the Court of Wards, or any Railway Administration is a party, the date for the first hearing shall be fixed for a day not less than two months after the institution of the suit, and if necessary, the date of hearing may be changed if counsel can show that instructions have not been received or that sufficient time for instructions and necessary inquiries has not been allowed.

Before fixing a date for final hearing, the Presiding Officer shall after consulting counsels for both sides if necessary, make a reasonable estimate as to the time required for the disposal of each particular case.

57. Party's fault in non-service of witnesses—

- (1) In all cases the court shall require a party applying for an adjournment on the ground that a summons has not been duly served to show that he applied where it was possible to so apply, for the issue of the summons in time to enable the service to be effected and that he performed every other act required for the issue and service thereof.
- (2) When a date more than one month ahead is fixed for the examination of witnesses the parties shall make repeated efforts to procure service of summons on their witnesses. It shall be their duty in the absence of any special order of the court for the issue of summonses within ten days of the order fixing the date for examination of witnesses and to make subsequent applications within seven days of the return to the court of a summons which has not been duly served.

Similarly when a date of more than one month is fixed for the service of summons on the opposite parties repeated efforts to procure service of summons shall be made.

- (3) The Nazir shall contact the party applying for the process, his authorised agent or counsel, and inform him of the fact that the process has been returned unserved. The signature of the party, agent or counsel, shall be obtained in such cases. Regarding cases, in which the party, agent or counsel cannot be conveniently contacted, a list of processes returned unserved, shall be notified from time to time on the notice board of the court.
- (4) Where a summons has been returned unserved by reason of a wrong or insufficient address of the witness, the court may, before adjourning the case for issue of a fresh summons require the party applying for the same to satisfy the court, by affidavit or otherwise, that such party was not in a position to know the correct address at the date when he applied for the issue of the former summons, and also that the evidence of the witness is really material.

58. Evidence common to the cases—

Whenever by consent of parties evidence given in one case is admitted by a Court as evidence in another case, separate proceedings stating the fact shall be recorded, signed by the Presiding Officer and placed on the records of both cases.

59. Witnesses in attendance to be examined—

On the day fixed for recording the evidence of witnesses the evidence of all witnesses in attendance shall, so far as is possible, be recorded. That some witnesses have not attended is no reason for not recording the evidence of those in attendance. If the examination of all the witnesses is not concluded on the same day, it shall be proceeded with, from day to day until all the witnesses have been examined, unless the court finds that for the exceptional reasons to be recorded by it, the adjournment of hearing beyond the following day is necessary.

60. Court may record the statement of witnesses in absence of party or Council -

Where a witness is present in court but a party or his counsel is not present or the party or his counsel though present in court, is not ready to examine or cross-examine the witness, the court may, if it thinks fit, record the statement of the witness and pass such orders as it thinks fit, dispensing with the examination-in-chief or cross-examination of a witness, as the case may be, by the party or his counsel not present or not ready as aforesaid.

61. Judge's duty during the recording of evidence—

The memorandum required by Order XVIII Rule 8, shall state clearly what each witness deposes as to the points at issue, and shall be recorded as the examination of each witness proceeds.

62. Record of parties statements—

Statements of parties or their counsel under Order X Rules 1, 2 or of a similar nature shall be recorded on a full sheet of foolscap paper and shall be signed by the person making it.

63. Witness not to be given seat on dias—

No witness should be provided any seat on the dias. All witnesses shall give their evidence from the witness-box. Witnesses should normally stand while giving evidence. However, Presiding Officer may allow the witness to be seated. While giving evidence, considering valid grounds such as (i) infirmity; (ii) old age; (iii) inordinate length of time in giving evidence; or (iv) for any other reason recorded to be in writing. (To be shifted)

64. Number of witnesses—

Subordinate court must invariably give the number of each witness as he is examined. The witness produce by the plaintiff should be numbered as P.W. 1, P.W.2 etc. by the defendant as D.W. 1 etc. and

witnesses called and examined by the court under Order XVI Rule 14 of the Code shall be numbered as C.W. 1 etc.

In case there are two or more than two defendants having conflicting interest or producing different sets of witnesses, the witnesses produced by the defendant No. 1 should be numbered as D 1 W 1, D 1 W 2 etc. and witnesses produced by defendant No. 2 should be numbered as D 2 W 1, D 2 W 2 etc. and so forth.

65. Expenses of Government servant appearing as witnesses in civil suits—

When Government servant is summoned or is deputed by his department or office to produce official documents or to give evidence of facts, which came to his knowledge in the discharge of his public duties in a civil case to which Government is not a party, the party at whose instance such witness is summoned shall deposit with the court, travelling and other expenses in accordance with the rules for payment of expenses to witnesses in Civil Court as framed by the High Court under Order XVI Rule 2(3) of the Code of Civil Procedure 1908 as amended from time to time. Out of the sum so deposited the court shall pay the Government servant, the amount of travelling allowance and other expenses in accordance with the referred rules. The amount of T. A. shall be as admissible to him under the T. A. Rules, as for journey on tour on the basis of a certificate duly signed by the head of office or department showing the emoluments received by him as pay etc.

¹⁵65A. Examination of parties under order X of the Code in suits relating to delivery of possession.-

In suits relating to delivery of possession, the court must examine the parties to the suit under Order X of the Code in relation to third party interest and further exercise the power under Order XI Rule 14 of the Code asking parties to disclose and produce documents, upon oath, which are in possession of the parties including declaration pertaining to third party interest in such properties.

65B. Joinder of all necessary or proper parties to the suit.-

After examination of parties under Order X of the Code or production of documents under Order XI of the Code or receipt of commission report, the Court must add all necessary or proper parties to the suit, so as to avoid multiplicity of proceedings and also make such joinder of cause of action in the same suit.

65C. Disclosure of assets and demand of security in money suits.-

In a suit for payment of money, before settlement of issues, the defendant may be required to disclose his assets on oath, to the extent that he is being made liable in a suit. The Court may further, at any stage, in appropriate cases during the pendency of suit, using powers under Section 151 of the Code, demand security to ensure satisfaction of any decree.

(G) Judgment and decree

15. Sec. 65A,65B & 65C inserted vide GSR No. 54, Notification No. 07/S.R.O./2022 dt. 30.06.2022 w.e.f. (Pub. in Raj. Gaz. on dt.04.07.2022)

66. Mode of recording judgment—

To each judgment shall be prefixed a heading specifying the number of the case and the names of all the parties.

No court shall write a judgment or final order on the order-sheet, or any paper already on the file, such as pleadings, applications, objections etc.

A judgment may be written by the Presiding Officer or may be recorded at his dictation, but every page of the record or a judgment, not in the handwriting of the Presiding Officer shall be attested by the Presiding Officer's signatures.

67. Provision of C.P.C. to be given in certain judgments—

When complaints are rejected or returned, and in cases disposed of without decree, as also in case in which decrees are passed without contest the Presiding Officer shall put on record the section or order and rule, of the Code under which the judgment or order is passed.

68. Reference in judgments to parties and witnesses—

- (1) A reference to a party or a witness shall be by name and number, and not merely by number like P.W.1 or D.W. 1.
- (2) Judgments shall contain words in full and not in abbreviated forms except where the abbreviations are well recognized and are in common use, such as a.m., p.m., e.g.

69. Judges may take records out of courts—

Presiding Officers of Courts may take records for perusal or writing judgment to their residence but only under proper entries made in a register kept for the purpose by the Reader or other clerk having custody of the record at the time. Records thus taken out of office must be returned as soon as possible. (To be shifted)

70. Judgments not to be delayed—

- (1) A judgment shall be delivered within a reasonable time after the close of the case which shall, in no case, exceed one month and in case judgment is not pronounced on the appointed date the Presiding Officer shall assign cogent reasons for not pronouncing judgment on that date. The date for pronouncing a judgment shall not be postponed more than once.
- (2) Completed cases to be decided by officer before proceeding on transfer.— After the receipt of the transfer order, a Presiding Officer may pronounce judgments only in those cases which arguments have been heard and completed and the date of delivery of judgment, already fixed, falls in between the period of his receiving the order of transfer and handing over the charge.

71. Decree to be self contained—

Every decree and order as defined in section 2 of the Code shall be drawn up in such a manner that in order to the understanding and execution thereof, it may not be necessary to refer to any other document or paper whatever, which is not made part of the decree or order.

Prescribed forms of decrees—

In all cases in which the form of a decree has been prescribed or indicated by statute, the decree shall be prepared, as far as possible, in the form so prescribed.

72. Taxing of diet money of witnesses—

In taxing costs the diet money of only such witnesses as are actually examined shall be included unless the court direct otherwise.

73. Drawing up of decree—

- (1) The decree or formal order shall be drawn up ordinarily within three days of the date of judgment and shall bear that date. After the decree has been examined, it shall be signed by the Presiding Officer and the date of such signature entered by him immediately beneath the signature.
- (2) Contents of decree (original).— The Presiding Officer shall see that the decree or formal order drawn up specified clearly the relief granted or other determination of the case and contains definite particulars of the claim.
- ¹⁶(3) The Court must, before passing the decree, pertaining to delivery of possession of a property ensure that the decree is unambiguous so as to not only contain clear description of the property but also having regard to the status of the property.

74. Contents of appellate decree—

When an appellate court modifies or reverses the decree of the trial court the appellate decree shall specify the relief actually granted as the result of such modification or reversal. The Judge shall satisfy himself before signing the decree that the relief thus specified has been embodied in the decree.

75. A copy of appellate judgment to be sent to the officer against whose order or decree, the appeal was preferred—

A copy of an appellate judgment certified to the lower courts shall, after noting the result in the appropriate register, be put up for perusal to the officer against whose order or decree the appeal was preferred, such officer shall return the copy within a fortnight.

76. Information to departmental heads when necessary—

A Presiding Officer shall, after delivery of his judgment in any suit or proceeding, inform the head of the department concerned of any circumstances personally affecting any public servant in that case.

¹⁷(H) SPECIAL PROVISIONS RELATING TO EXECUTION OF DECREE

77. Immediate execution of decree for payment of money.-

16. Inserted vide GSR No. 54, Notification No. 07/S.R.O./2022 dt. 30.06.2022 w.e.f. (Pub. in Raj. Gaz. on dt.04.07.2022)

17. Inserted vide GSR No. 54, Notification No. 07/S.R.O./2022 dt. 30.06.2022 w.e.f. (Pub. in Raj. Gaz. on dt.04.07.2022)

In a money suit, the Court shall resort to Order XXI Rule 11 of the Code, ensuring immediate execution of decree for payment of money even on oral application.

78. Objection on execution or decree by third-party.-

The Court exercising jurisdiction under Section 47 or under Order XXI of the Code, may not issue notice on an application of third-party claiming rights in a mechanical manner. Further, the Court should refrain from entertaining any such application(s) that has already been considered by the Court while adjudicating the suit or which raises any such issue which otherwise could have been raised and determined during adjudication of suit if due diligence was exercised by the applicant.

79. Allowing evidence during execution proceedings.-

The Court should allow taking of evidence during the execution proceedings only in exceptional and rare cases where the question of fact could not be decided by resorting to any other expeditious method like appointment of Commissioner or calling for electronic materials including photographs or video with affidavits.

80. Award of compensatory costs in frivolous or mala fide objections.-

The Court shall in appropriate cases where it finds the objection or resistance or claim to be frivolous or mala fide, resort to Sub-rule (2) of Rule 98 of Order XXI of the Code as well as grant compensatory costs in accordance with Section 35-A of the Code.

81. Time bound disposal of Execution Proceedings.-

The Executing Court shall dispose of the Execution Proceedings within six months from the date of filing, which may be extended only by recording reasons in writing for such delay.

82. Providing police assistance to execute the decree.-

The Executing Court may on satisfaction of the fact that it is not possible to execute the decree without police assistance, direct the concerned Police Station to provide police assistance to such officials who are working towards execution of the decree. Further, in case an offence against the public servant while discharging his duties is brought to the knowledge of the Court, the same must be dealt stringently in accordance with law.

ORDER 21

SUITS BY OR AGAINST PERSONS IN SERVICE OF ARMY, NAVY OR AIR FORCE

1. Jurisdiction of Civil Courts—

All persons belonging to the army, navy or air force are now amenable to jurisdiction of ordinary Civil Courts subject to certain restriction as provided hereafter pertaining to their personal appearance in Court and execution of decree against their persons, pay and allowances and their equipment.

2. Suits by or against persons belonging to the Army, Navy or Air Force –

- (a) Where any officer, soldier, sailor or airman, actually serving under the Government in such capacity is a party to a suit, and cannot obtain leave of absence for the purpose of prosecuting or defending the suit in person, he may authorize any person to sue or defend in his stead.
- (b) The authority shall be in writing in the prescribed form **(F.120)** and shall be signed by the officer, soldier, sailor or airman, in the presence of-
 - (i) his Commanding Officer, or the next subordinate officer, if the party is himself the commanding officer, or
 - (ii) where the officer, soldier, sailor or airman, is serving in army, navy or air force staff employment, the head or other superior officer of the office in which he is employed.Such commanding or other officer shall countersign the authority, which shall be filed in Court.
- (c) When so filed the countersignature shall be sufficient proof that the authority was duly executed, and that the officer, soldier, sailor or airman by whom it was granted could not obtain leave of absence for the purpose of prosecuting or defending the suit in person.

Explanation—The expression "Commanding Officer" means the officer in actual command for the time being of an regiment, corps, ship, detachment or depot to which the officer, soldier, sailor or airman belongs.

3. Person so authorized may act personally or appoint pleader—

Any person authorized by an officer, soldier, sailor or airman to prosecute or defend a suit in his stead may prosecute or defend it in person in the same manner as the officer, soldier, sailor or airman could do if present; he may also appoint a pleader to prosecute or defend the suit on behalf of such officer, soldier, sailor or airman.

4. Power of Attorney –

A power of attorney or authority to institute or defend a suit executed in the form **(F.120)** is not chargeable with Court fee (*See Section 19, clause (1) of the Court-fees Act, 1870*).

5. Summons to soldiers, sailors and airmen-

Summons to officer, soldier, sailor or airman, as defendant or as witness, shall be sent for service to his Commanding Officer, together with a copy to be retained by the defendant. In such cases, sufficient time shall be given to make arrangements for relieving the person summoned.

6. Intimation to Commanding Officer-

Where an officer, soldier, sailor or airman has been summoned through the Commanding Officer under Order V Rule 3 of Code of Civil Procedure, 1908, to appear in person, summons shall be sent with a forwarding letter in the prescribed form **(F.121)** or in a note on the summons, stating that the summons should be regarded by such Commanding Officer also as notice to make arrangement for the performance of the duties of such officer, soldier, sailor or airman, during his absence.

Provided that, if such officer, soldier, sailor or airman in the army, navy or air force of the Union of India is summoned as a defendant under Order V Rule 1 of Code of Civil Procedure, 1908; he shall make his own arrangements, if he wishes to appear in court in person.

7. Service on person so authorized, or on his pleader—

Processes served upon any person so authorized by an officer, soldier, sailor or airman or upon any pleader appointed as aforesaid by such person shall be as effectual as if they had been served on the party in person.

8. Speedy disposal of cases—

Civil Courts should dispose of all suits, for the prosecution or defence of which officers, soldiers, sailors, airmen or reservists have obtained leave of absence as speedy as is consistent with the administration of justice, irrespective of the order in which they stand on the register.

9. Priority certificate, Extension of leave by Court—

- (a) When a person subject to the Army Act, 1950, the Air Force Act, 1950, or the Navy Act 1957 obtains or applies for leave of absence for the purpose of prosecuting or defending a civil suit, is provided by his Unit Commander with a certificate to enable him to obtain priority of hearing; said certificate must be presented by him in person or on behalf of the person to the Court.
- (b) On the presentation to any court by or on behalf of such person of a certificate from the proper authority of leave of absence having been granted to or applied for by him for the purpose of prosecuting or defending any suit or other proceeding in such court, the court shall, on the application of such person, arrange, so far as may be possible for the hearing and final disposal of such suit or other proceeding within the period of the leave so granted or applied for.
- (c) The certificate from the proper authority shall state the first and last day of the leave or intended leave, and set forth a description of the case with respect to which the leave was granted or applied for.
- (d) No fee shall be payable to the court in respect of the presentation of any such certificate, or of any application by or on behalf of any such person, for priority for hearing of the case.
- (e) Where the court is unable to arrange for the hearing and final disposal of the suit or other proceeding within the period of such leave or intended leave as aforesaid, it shall record its reasons for its inability to do so, and shall cause a copy thereof to be furnished to such person on his application without any payment

whatever by him in respect either of the application for such copy or of the copy itself.

- (f) If in any case, a question arises as to the proper authority qualified to grant such certificate as aforesaid, such question shall at once be referred by the court to an officer having power not less than a brigade or equivalent commander whose decision shall be final.

10. Execution against persons subject to army, navy or air force law-

- (1) (a) In execution of a decree, or award, the pay and allowances of persons to whom the Air Force Act, 1950 (45 of 1950), or the Army Act 1950 (46 of 1950), or the Navy Act, 1957 (62 of 1957), applies, shall not be liable to attachment or sale.
- (b) Neither the arms, clothes, equipment, accoutrements or necessaries of any person subject to these Acts, nor any animal used by them for discharge of their duty, shall be seized, in satisfaction of any decree or order enforceable against them.
- (c) (i) No person as referred in clause (a) shall, so long as they belongs to the Forces be liable to be arrested for debt under any process issued by, or by authority of, any civil court.
- (ii) The judge of any such court may examine into any complaint made by such person or his superior officer of the arrest of such person contrary to the provisions of these rules and may, by warrant under his hand, discharge the person, and award reasonable costs to the complainant, who may recover those costs in like manner as he might have recovered costs awarded to him by a decree against the person obtaining the process.
- (iii) For the recovery of such costs, no court fee shall be payable by the complainant.
- Expression "Civil Court" does not include a criminal court.
- (2) (a) No Presiding Officer or member of a court-martial, no judge advocate, no party to any proceeding before a court-martial, or his legal practitioner or agent, and no witness acting in obedience to a summons to attend a court-martial shall, while proceeding to, attending, or returning from, a court-martial, be liable to arrest under civil process.
- (b) If any such person is arrested under any such process, he may be discharged by order of the court-martial.
- (3) Every person belonging to the Indian Reserve Forces shall, when called out for or engaged in or returning from, training or service shall also be entitled to all the privileges and protection contained herein-before.
- (4) The rights and privileges specified in these rules shall be in addition to, and not in derogation of, any other rights and privileges conferred on persons subject to these rules or on members of the regular Army, Navy and Air Force generally by any other law for the time being in force.

11. Proceedings with respect to Succession Certificates –

Where the Court finds that a person falling under clause (c) of Section 372(1) of the Indian Succession Act, 1925, is subject to the Army Act, 1950, or the Air Force Act, 1950, or Navy Act, 1957, serving under special or War conditions, and there is no special and obvious reason for suspecting the good faith of the members of the family actually applying for the certificate, the Court should declare that, in the

circumstance, it is unnecessary to make the soldier a party to the proceeding or to issue notice to him; but in such cases the Court should always demand security under Section 375 of the Act. If, on the other hand, there is any sufficient reason to suspect the good faith of the applicant, then he should be required to get a power of attorney from the absent soldier or some written assurance from him that he does not object to the application.

12. Criminal cases against persons subject to Army, Naval or Air Force law-

Criminal cases against persons subject to army, naval or air force law shall be tried by the court subject to the provisions of Section 475 of the Code of Criminal Procedure, 1973 and the Criminal Courts and Court-Martial (Adjustment of Jurisdiction) Rules, 1978 framed by the Government of India as amended from time to time given in **Appendix-G**.

13. Notice of conviction to appropriate authority-

If any person subject to the Army Act, 1950 (46 of 1950) or the Air Force Act, 1950 (45 of 1950) or the Navy Act, 1957 (62 of 1957); is convicted of any offence, by a court, such conviction shall be intimated to the concerned Officer Commanding of the Unit, Regiment, detachment or competent naval authority, to which he is attached.

14. Dress of Persons in Service of Army, Navy or Air Force-

- (1) An officer or Soldier or sailor or airman of army, navy or air force is required to attend a court in his official capacity should appear in uniform. Attendance in an official capacity, includes attendance-
 - (a) as witnesses, when evidence has to be given of matters which come under the cognizance of the officer, soldier, sailor, or airman in his official capacity;
 - (b) by an officer for the purpose of watching case on behalf of officer, soldier, sailor, or airman under his command.
- (2) An Officer or Soldier or Sailor or Airman of Army, Navy or Air Force is required to attend a court otherwise than in his official capacity may appear either in plain clothes or in uniform.
- (3) Such persons shall not wear his sword or side arms if he appears in the character of an accused person or under military arrest or if the Presiding Officer of the court think it necessary to require the surrender of his arms, in which case a statement of the reason for making the order shall be recorded by the Presiding Officer and, if the concerned authorities so request forward a copy of the order for information to the Commander-in-Chief, as the case may be.
- (4) Fire arms shall under no circumstances be taken into court.
- (5) Such person with a European style head dress will remove the same while the judge is present, except when he is on duty under arms with a party or escort inside the court.

15. Special protection in respect of Civil and Revenue Litigation of Indian Soldiers serving under special conditions.-

If any person presenting any plaint, application or appeal to any Court has reason to believe that any adverse party is an Indian Soldier who

is serving under special conditions, he shall state the fact in his plaint, application or appeal.

Explanation-

- (a) "Court" means a Court other than a Criminal Court and includes any such tribunal or other authority as may be specified by the Central Government by notification in the Official Gazette being a tribunal or authority which is empowered by law to receive evidence on any matter pending before it and on the basis of such evidence to determine, after hearing the parties before it, the rights and obligations of the parties in relation to such matter;
- (b) "Indian Soldier" means any person subject to the Army Act, 1950 (46 of 1950), or the Air Force Act, 1950 (45 of 1950), or the Navy Act, 1957 (62 of 1957);
- (c) "Serving under special condition" means a condition as defined in Section 3 of the Indian Soldiers (Litigation) Act, 1925, as amended from time to time.

In these cases, provisions of Indian Soldiers (Litigation) Act, 1925, and Rules made there-under, shall apply mutatis mutandis as given in **Appendix-H**.

ORDER 22

MUNICIPAL SUITS AND APPEALS

In matters of suits and appeals by or against municipality/municipal council/municipal corporation; in addition to General Rules, as applicable to pleadings, applications, petitions and appeals of whatever nature, following rules shall also apply-

1. All pleadings, applications and petitions of whatsoever nature, and also powers of attorney and certificate of pleaders, filed in the course of civil judicial proceedings, shall be printed on stout durable paper of full scape size in Vernacular/ English:
Both side of the paper shall be used, and a quarter margin, together with at-least one & half inch of space at the top and bottom of each sheet, shall be left.
2. At the time of presentation of any Suit/ Application/ Appeal, written statement or reply as the case may be, by or against municipality/municipal council/municipal corporation. Such party shall also file an email ID and registered mobile number where service can be effected. Such party shall also file an undertaking stating therein that any service transmitted electronically on such email ID or registered mobile number shall be deemed to be sufficient service on such party concerned.
3. In any Suit/ Application/ Appeal where matter in dispute is immovable property, a site plan to the scale, together with appropriate number of coloured photograph, shall also be submitted along with such suit/ application/ appeal; duly authenticated on oath by the party/ pleader submitting such document.
4. Any suit or appeal by municipality/municipal council/municipal corporation, as the case may be, instituted by such officer of the municipality/municipal council/municipal corporation duly authorized by the Board.
A municipal board/ municipal council/ municipal corporation shall by general resolution authorize and notify such officer.
5. Presentation.— Every Suit/ Application/ Appeal of whatsoever nature shall be filed before such official appointed by the court or by the District Judge to receive such presentation.
No such presentation shall be made across the Dais during court hours.
Provided, that such presentation may be made in the court on the ground, of limitation, or other urgent reason, if any.
The Presiding Officer when accepting such presentation during court hours or after court hours will make a note on such papers, the time of presentation.
6. At the time of presentation, the following entries shall be made by the official concerned:—
 - (a) date and time of Presentation,
 - (b) name of presenter,
 - (c) classification of suit/ application/ petition, and
 - (d) court fee paid.
7. **Contents of Memorandum of appeal-**
 - (1) The cause title of every memorandum of appeal shall contain -
 - (a) The designation of the Court;
 - (b) The name, age, description and address of each appellant;
 - (c) The name, age, description and address of each person who is proposed to be made the opposite party;

- (d) The status (whether plaintiff, petitioner, defendant, non-petitioner etc.) of the parties in the Court of first instance, if any;
 - (e) Date of the impugned judgment/order; and
 - (f) Case number in which such judgment / order was passed by the original Court;
 - (g) Facts of the case in brief;
 - (h) Grounds, numbered serially;
 - (i) Relief prayed for;
 - (j) It shall be stated as to whether it is first or subsequent appeal against the impugned order. If subsequent, the particulars and result of earlier proceedings shall be disclosed;
 - (k) It shall also be stated as to whether there is any connected appeal against same judgment/order is pending, if yes, the details if any; and
 - (l) It shall also be stated that the appellant(s) has not filed any memorandum of appeal/ revision before High Court.
- (2) Every such memorandum of appeal shall be accompanied by a certified copy of the impugned judgment or order together with certified copy/ copies of other relevant record necessary for decision of appeal, with affidavit certified to be correct by the party supplying them or his advocate, as the case may be.

Provided, that Court may dispense with the requirement of filing certified copy of the judgment/ order.

- 8. Duty of official concerned of the court in respect of Suit/ Application/ Appeal—** (1) After presentation, official concerned of the court having jurisdiction, shall examine each suit/ application/ petition presented to him, and shall report thereon, whether-
- (a) the provisions of the Code and the Court Fees Act have been observed ,
 - (b) the claim is within the jurisdiction of the court,
 - (c) constitutes a cause of action,
 - (d) has been presented within the period of limitation.

9. Provisions of ADR to be mentioned-

In every summons/ notice, provisions of ADR shall also be mentioned at appropriate place.

10. Requisition of Record-

In case of appeal against the order, no record shall be called from the Court in which original case is pending, however, record can be obtained, if already consigned to record room by means of a requisition in the prescribed Form **(F.130)**

Provided, if in the opinion of the court, original record is essential for decision of the appeal, in that case, record can be called at the time of hearing/ decision, and such record shall not be detained for more than fifteen days.

11. Mode of proof of record-

- (a) A copy of any receipt, application, plan, notice, order, entry in a register or other document in the possession of a municipality/municipal council/municipal corporation shall, if duly certified by the record keeper thereof or other person authorized by it in this behalf, be received as prima facie evidence of the existence of the entry or document and shall be admitted as evidence of the matters and transaction therein recorded in

every case where, and to the same extent as, the original entry or document would, if produced, have admissible to prove such matters.

- (b) No municipality/municipal council/municipal corporation officer or servant shall, in any legal proceeding to which a municipality/municipal council/municipal corporation is not a party, be required to produce any register or document, the contents of which can be proved as aforesaid by a certified copy, or to appear as a witness to prove the matter and transactions recorded therein unless by order of the court made for special cause.

12. Interim relief.-

If any interim relief is granted in favour of plaintiff/ applicant/ appellant in relation to any alleged encroachment/ unauthorized occupation, such matters shall be heard on priority, no adjournment beyond seven days at a time shall be granted to any party in such matters.

13. No civil court shall in the course of any suit/ application/ petition/ appeal grant any temporary injunction or make any interim order-

- (a) Restraining any person from exercising the powers or performing the functions and duties of a member Chairperson, Vice-Chairperson, Officer or servant of a municipality/municipal council/municipal corporation or a committee or sub-committee of a municipality/municipal council/municipal corporation on the ground that such person has not been duly elected or appointed as such member, chairperson, vice-chairperson, officer or servant, or
- (b) Restraining any person or persons or any municipality/municipal council/municipal corporation or committee or sub-committee of a municipality council/ corporation from holding any election or from holding any election in any particular manner.

14. No compromise in any suit/ application/ petition/ appeal or prosecution shall be taken on record unless duly authorized and authenticated by the appropriate authority.

A municipal board/ council/ corporation shall by general resolution authorize and notify such authority.

ORDER 23

APPOINTMENT OF RECEIVER

1. Application for appointment of Receiver—

Every application for the appointment of a receiver shall be made in writing and shall be supported by an affidavit.

2. Register of Receivers—

As soon as an order for the appointment of a receiver being drawn up and issued, an entry shall be made in a register to be kept for the purpose. A copy of the order of appointment together with terms of reference shall also be sent to the receiver appointed.

3. Receiver other than official receiver to give security—

Where an order is made directing a receiver to be appointed, the person appointed, if not the Official Receiver, shall, unless otherwise ordered, first give security to the satisfaction of the court for the due performance of his duties as Receiver. The court may take the personal bond of the receiver with such number of sureties as the court may consider necessary. The amount of the bond shall be in proportion to the annual rental of the immovable property, or the value of the movable property which is likely to come into the hands of the receiver.

4. Surety may point out omission(s) or neglect of duty cast on part of Receiver—

If the security mentioned in Rule 3 is furnished by the receiver by his executing a bond with a surety or sureties (including in the latter term a guarantee Company or society), the surety or sureties shall be entitled, by an application to bring to the notice of the Court any act, omission or neglect of any duty cast on the receiver by law or any other circumstance, which would entitle the surety or sureties to be discharged from the obligation created by such bond and the Court may thereupon make such order and on such terms as it may think fit.

5. Receiver to submit report—

Unless otherwise ordered by the Court the Receiver shall, within one week of the appointment, submit to the Court a detailed report regarding the property with an inventory of the property, account books, etc. taken charge of documents by him.

6. Maintenance of Accounts—

The receiver shall maintain true and regular accounts of the receivership and shall in particular maintain a cash book in which shall be entered from day to day all receipts and payments and also a ledger. He shall also maintain a counterfoil receipt book with the leaves numbered serially in print, from which shall be given, as far as possible, all receipts for payments made to the receiver.

7. Directions for investment of moneys in the hands of the receiver.—

(1) Unless the Court otherwise directs, the receiver shall, as soon as may be after his appointment, open an account in the name of the receivership in such banks as the Court may direct and shall deposit therein all moneys received in the course of the receivership immediately on receipt thereof save any minimum sums that may be required for meeting day to day current

expenses. All payments by the receiver shall, as far as possible, be made by cheques drawn on the bank account.

- (2) The court, in consultation with the parties, may give appropriate directions for the investment of all sum received by the receiver.

8. Notice to surety of application affecting surety's risk—

The surety or sureties mentioned in Rule 3 shall be entitled to notice of any application to the Court, on the part of the receiver, or any other party interested relating to any property in the management or under the control of the receiver which may affect the risk undertaken by the surety or sureties under the security bond furnished by the receiver and the Court upon hearing the said surety or sureties may make such order as to his or their cost of appearance in such application as it may think fit.

9. Powers of Receiver—

In the absence of any order in that behalf every receiver of immovable property shall have all the powers specified in Order XL Rule (1)(d) of the Code of Civil Procedure 1908, except that he shall not without the leave of the Court—

- (a) Grant lease, or
- (b) Bring suits, except suits for rent, or
- (c) Institute an appeal in any Court (except from a decree in a rent suit) where the value of the appeal is over Rs. 1,000/- or
- (d) Expend on the repairs of any property in any period of two years more than one-fourth of the annual rental of the property to be repaired, such rental being calculated at the amount at which the property to be repaired could be let out within fair state of repairs.

10. Rule 8 applicable to manager or guardian—

Subject to the order of the Court, Rule 8 shall apply to a guardian of the person or estate of a minor and the manager of the estate of a lunatic appointed by the Court.

11. Receivers' remuneration—

- (1) The Receiver shall be entitled to such remuneration as the court thinks reasonable.
- (2) Whenever the properties are in charge of an official receiver the above remuneration shall be credited to Government revenue.

12. Establishment and costs therefore to be detailed in the appointment order—

The establishment, clerical or otherwise, required by a receiver, if any, and the cost thereof chargeable to the estate or property of which he is appointed receiver shall as far as possible, be detailed in the order of appointment or in subsequent order.

13. No charge for additional establishment allowed—

Unless otherwise ordered, no charge for establishment shall be allowed to the receiver.

14. Receiver to file half-yearly accounts—

- (1) Every receiver shall, unless otherwise ordered, file his half-yearly account in Court, the first of such accounts to be filed within one month after the expiration of six months from the date of his appointment, and every subsequent account within one month after the expiration of each succeeding period of six months, or in a case where the purpose for which the receiver was appointed has been carried out or completed before the expiry of six months from the date of appointment, within one month from the date of such carrying out or completion.
- (2) Every such account shall show the balance in hand, and if so what portion thereof is required for the purpose of the estate and how much may be paid into Court or invested, and shall be verified by an affidavit.
- (3) Parties shall be entitled to file objections upon the statement of accounts submitted by receiver and the court shall decide the same.

15. Auditing of difficult and complicated accounts—

In any case where the accounts are difficult and complicated, Court may order such accounts to be audited at the expense of the estate by a Chartered Accountant.

16. Order as to payment of balance—

- (1) The Court, on the passing of the Accounts, may make such order as to the payment of the balance, or any part thereof, either into Court or in such other manner as may seem proper.
- (2) The court may make an enquiry as to the amount, if any, due from the receiver, as shown by his accounts or otherwise, or an enquiry as to any loss of the property occasioned by his willful default or gross negligence and may order the amount found due, if not already paid by the receiver or the amount of loss so occasioned, to be paid by the receiver within a period to be fixed by the Court.

17. Consequence of Receiver's negligence to file accounts or pay the balance etc—

Where any receiver neglects to file his accounts, or to pay the balance or any part thereof as ordered, the Court may, from time to time, not only disallow, the remuneration therein claimed by such receiver but also charge him with interest not exceeding nine per cent per annum upon the balance, if any, so neglected to be paid by him during the time such balance shall appear to remain in the hands of such receiver.

18. Consequence or default by receiver—

Where any receiver fails to file any account or affidavit or to make any payment or commits any other default the receiver or persons interested or any of them, may be required by notice to attend before the Court to show cause why such account or affidavit has not been filed or such payment made or any other proper proceeding taken and thereupon the Court may give such directions as may be proper,

including the discharge of the receiver and appointment of another and also the payment of costs by the defaulter.

19. Sale by Receiver-

Rules contained in Order 21 Rule 64 to 106 of Code of Civil Procedure, 1908 shall, with any necessary modifications, apply to sales held by the Receiver.

20. Interim receiver—

Unless otherwise ordered by the Court, the provisions of this Chapter shall apply mutatis mutandis to orders for appointment of interim receivers.

¹⁸20A. Appointment of receiver to monitor the status of the property.-

In appropriate cases, the court may, under Order XL Rule 1 of the Code, appoint Court Receiver to monitor the status of the property in question as custodia legis for proper adjudication of the matter.

ORDER 24

ARRANGEMENT AND PRESERVATION OF JUDICIAL RECORDS

Section -I **General**

1. Wrapping of a record or part of a record—

Each record, or when the record is maintained in separate parts, each part of a record shall be wrapped in a durable file paper and shall be stitched in book form.

2. Particulars to be shown on every sheet of application etc.-

- (1) Every sheet of an application, petition, process, notice or order in relating to a suit which will include a proceeding from the institution of the suit down to the final decree shall bear on the left hand centre portion of each paper (obverse side):—
- (a) the name of the court in which the original suit was instituted, or to which it was transferred;
 - (b) the register number and the year of the original suit including CIN Number; and
 - (c) the title of the suit:

18. Inserted vide GSR No. 54, Notification No. 07/S.R.O./2022 dt. 30.06.2022 w.e.f. (Pub. in Raj. Gaz. on dt.04.07.2022)

- (2) Similarly on every sheet of an application, petition, process, notice or order in or relating to an execution application shall bear on the left hand centre portion of each paper (obverse side):—
- (a) the name of a court in which the execution application was filed or to which it was transferred;
 - (b) the register number and the year of the execution application; and
 - (c) the title of the execution application.
 - (d) the CIN Number.

3. Particulars to be shown on the title page of a record or part of a record—

Each record or when such record is divided into parts, each part of such record, shall have a title page (or wrapper) in the prescribed form **(F.122)** showing the following particulars:—

- 1. Name of court.
- 2. Kind of case.
- 3. Title of case.
- 4. CNR Number.
- 5. Number and year of case.
- 6. Date of institution.
- 7. Date of disposal.
- 8. Date of consignment to record room.
- 9. Date of decision in appeal or revision.
- 10. Kind of file or part.
- 11. Class of record.

4. Keeping of parts of a record—

When a record is divided into parts, whether each part shall be kept in a separate file or whether two or more or all the parts of a record shall be stitched together in one file, shall be determined in each case having regard to the nature of the case and the size which the record is likely to attain or has attained.

5. Recording of proceedings, notes depositions and reports in the record—

- (a) All proceedings, notes, depositions, memoranda and reports shall be written on foolscap size paper. They shall be so recorded as to leave sufficient margin on each side of the paper, so that any writing may not be covered by the stitching or obliterated by fraying at the edges.
- (b) The practice of writing orders, reports 'sherishta' or other matter across the top and along the side of a page is forbidden.

6. General Index—

- (a) As each case is instituted, the clerk-incharge of the record shall prepare a General Index in **(F.118)** which shall be prefixed to the record of every case and each paper as it is filed unless otherwise directed in these rules shall be entered in the index, along with its date of presentation, in the order in which they were brought on record.
- (b) The exhibit mark of every document admitted in evidence shall be noted in bold letters and figures on the right hand margin of the index **(F.133)** opposite the entry relating to such document.

- (c) When a paper is removed from the record the fact of such removal shall at once be noted in the General Index **(F.133)** and the appropriate index of exhibits against the entry of that paper.

7. Order-Sheet—

An order-sheet in the prescribed form **(F.123)** shall be maintained as the second paper of the record in every suit or case. The order-sheets are intended to be record of the progress of the suit or proceeding from the date of the first hearing of the suit or proceeding. The order-sheet shall be legible and complete and shall contain—

- (i) A record of the presence of the parties by name and the names of their recognised agents or counsel;
- (ii) A record or each order passed and material event occurring in the proceedings of the case on that date;

The expression "material event occurring in the case" used in the preceding shall, without prejudice to its generality, be held to include.—

- (a) the filing of a plaint or written statement;
- (b) the examination of parties under Order X Rule 1 and 2;
- (c) the recording or amendment of issues;
- (d) the examination and names of witnesses;
- (e) the reading of the deposition of a witness examined by commission;
- (f) the filing of a commissioner's report and any objection (oral or in writing) thereto;
- (g) the present of witnesses when a case is adjourned;
- (h) the hearing of arguments;
- (i) the delivery of judgment;
- (j) the signing of a decree;
- (k) the filing of an application for review of judgment or amendment of decree; and
- (l) an order relating to a deposit, an order for repayment thereof, or an order for issue of a re-payment order.
- (m) Upon receipt of an application for re-payment, it will be necessary to re-consult the original record, if original record is already in court, the entry will be made in the order-sheet of such record and initialed by the Judge; but if the original record is in the record-room and the procedure laid down for repayment has been followed an entry of such order passed by the court shall be made by the record-keeper under his own initials when the application for re-payment is received by him for being filed with the record.
- (iii) An order, not being an order for adjournment or postponement, the reasons for which are required to be recorded at length, shall not be written on the order-sheet but only note of the order and of the date on which it was made shall be entered on it. Every entry upon the order-sheet shall be signed by the Presiding Officer. Every order-sheet shall bear at its top the number and the title of the case.
- (iv) A record of the production of documents, admissions and denials thereof by the opposite party and the decision on questions of relevancy, if raised and the tendering of the documents in evidence, their rejection impounding or return.

8. Entries in the order-sheet—

Entries in the order-sheet shall be made by the Presiding Officer or by the Reader under the directions of the Presiding Officer and shall bear the signatures or initials of the Presiding Officer.

Section II
Division of Civil Records into Classes

9. Division of records of judicial proceedings in Civil Courts—

- (1) The records of judicial proceedings in Civil Court shall be divided into three classes.

Class I

- (a) Suits for or affecting immovable property, including suits for foreclosure, sale or redemption other than suits for arrears of rent or for a share in produce, when the right is not disputed and only the amount is contested.
- (b) Suits in respect of the succession to an office or to declare the validity or invalidity of an adoption or otherwise to determine the status of an individual.
- (c) Suits relating to public trusts, charities, endowments, rights or customs.
- (d) The records of Execution cases, where possession of immovable property is given in pursuance of the decree or where immovable property is sold in execution.
- (e) The records of Insolvency cases, where the court decides a question of title to immovable property.

Class II

- (a) Contested and uncontested suits and cases for succession certificates-probate and letters of administration and for the revocation of the same.
- (b) Cases relating to the guardianship of minors and the administration of their property.
- (c) Cases relating the guardianship of lunatics and the care of their estate.

Class III

- (a) Records of all suits which do not come under Classes I and II.
- (2) The records of appeals against decrees and final orders shall belong to the class to which the record of the original case belongs.
- (3) The records of appeal in cases other than those referred to in the above sub-rule shall belong to Class III.
- (4) The records of execution cases, where a question of interpretation of decree is determined, shall belong to the class to which the record of the original case belongs.
- (5) The records of execution cases, except those referred in the preceding rule, shall belong to Class III.
- (6) The records of Insolvency cases, other than those referred above, shall belong to Class III.
- (7) The records of all other cases which do not fall in any of the classes mentioned hereinbefore shall belong to Class III.

10. Arrangement of civil records—

- (1) The record of an original civil suit or case shall be arranged in four Parts A, B, C and D. It shall also entered in the index of the part **(F.124)**
- (2) (i) **Part-A** shall contain the following papers :-
 - (a) Index of papers.
 - (b) The Order-sheet.
 - (c) The plaint, petition or application together with any schedule annexed thereto.
 - (d) Any process served upon the defendant together with the return of service in cases decreed ex-parte.
 - (e) Written statements and oral statements of parties or their counsel or other persons recorded under Order X Rule 1 and 2 of the Code.
 - (f) The memorandum of issues.
 - (g) Any award of arbitrators or petition of compromise, if given effect to in the decree, also the report together with the map (if any) of a Commissioner in matters relating to immovable property, if referred to or given effect to in the decree, but not any portion of the evidence taken by such Commissioner; also in the case of minors or lunatics any order of the court sanctioning a compromise as beneficial to the minor or lunatic.
 - (h) Any order for administration or for partition or for accounts or inquiry, with the direction given and the judgment upon which such order is founded.
 - (i) The judgment or final order.
 - (j) The preliminary decree (if any) and the final decree.
 - (k) The copy of any judgment and decree passed in appeal or revision.
 - (l) Any other paper, which the Presiding Officer may, for reasons to be recorded in writing order to be placed in Part-A.
- (ii) **Part-B** shall contain the following papers :
 - (a) Index of papers.
 - (b) All oral evidence.
 - (c) Vakalatnama.
 - (d) All petitions and papers not specified as included in any other part.
- (iii) **Part-C** shall contain the following papers : —
 - (a) Index of papers.
 - (b) List of documents admitted in evidence on behalf of the plaintiffs.
 - (c) Documents admitted in evidence on behalf of the plaintiffs.
 - (d) List of documents admitted in evidence on behalf of the defendants.
 - (e) Documents admitted in evidence on behalf of the defendants.
- (iv) **Part-D** shall contain the following papers :—
 - (a) Index of papers.
 - (b) All summonses, processes, returns thereto, lists of witnesses, petitions relating to the attendance of witnesses or adjournments, proceedings calling for or sending papers or records and affidavits relating to matters mentioned in this sub-rule petitions for

- grant of copies or for inspection of records and papers relating thereto.
- (3) The papers in each part of a record shall be arranged in the order in which they are set forth in these sub-rules. When there are several papers of the same kind, they shall be arranged in chronological order except that when a witness has been cross-examined or re-examined at a later stage of the proceedings, such cross-examination or re-examination shall be attached to his original deposition.
- (4) The record of a civil appeal case shall be arranged in four parts — A, B, C and D.
- (5) (i) Part-A shall contain the following papers :-
- (a) Index of papers;
 - (b) The Order-Sheets;
 - (c) The petition or appeal, together with copies of judgments and decrees of lower courts;
 - (d) Any process served upon the respondent together with the return of service in cases decreed ex parte.
 - (e) Any cross-objection filed by the respondent;
 - (f) Issues referred for trial by the appellate court with the findings thereon;
 - (g) Any award of arbitrators or petition of compromise, if given effect to in the decree, also the report together with the map (if any) of a Commissioner in matters relating to immovable property, if referred to or given effect to in the decree, but not any portion of the evidence taken by such Commissioner; also in the case of minors or lunatics any order of the court sanctioning a compromise as beneficial to the minor or lunatic;
 - (h) Any order for administration or for partition or for accounts or inquiry, with the direction given and the judgment upon which such order is founded;
 - (i) The judgment or final order.
- (ii) Parts-B, C and D shall be arranged in the same manner as in an original case.
- (6) The record of an execution case shall be arranged in two parts-A and B.
- (7) (i) Part-A shall contain the following papers:—
- (a) Index of papers.
 - (b) The Order-sheet.
 - (c) The application for execution, together with any schedule annexed thereto and the copy of the decree.
 - (d) Any petition raising any question as to the construction or effect of the decree and any counter petition.
 - (e) The judgment of the court on such question.
 - (f) The copy of any judgment passed in appeal or revision.
 - (g) Nazir's return of delivery of possession.
 - (h) Acknowledgement of receipt of possession.
 - (i) Court copy of certificate of sale.
 - (j) Receipt or acknowledgement of satisfaction of decree.
 - (k) Power of attorney where it empowers the agent of counsel to receive money.

- (i) Order of commitment to civil prison and order of release there from, together with the jail report of execution of the order.
- (ii) Part-B shall contain the following papers :—
 - (a) Index of papers.
 - (b) All papers not contained in Part A.
- (8) The record of an investigation into a claim or objection preferred during execution proceedings shall be separately compiled and arranged as the record of an original case.

11. Paper taken out of a record to be replaced with a copy—

When a document in any record, civil or criminal, is made an exhibit in another record, and is removed to that record, a certified copy of the document shall be retained in the record from which the document is removed and a note of the removal made on the general index or order-sheet. The certified copy shall be prepared by the court, Reader or clerk and shall be signed by the Presiding Officer of the court. After the decision of the appeal or after the expiry of the period of appeal, if no appeal has been brought, the document shall be returned to the record of which it originally formed part, its place being taken by the certified copy.

12. Documents forming basis of suit how dealt with.—

- (1) A party filing an original document on which his suit or defence is founded must file also a copy thereof. This shall contain at the top, a note of the stamp duty paid on the original document. The copy will either be prepared by the copying department on payment of fees, or compared there on payment of one-quarter of the charges for preparing a copy.
- (2) The document or documents will be kept on a separate file called supplementary 'C' file with an index.
- (3) This supplementary file containing the original document or documents and the index will be kept by the Munsarim or Reader in a locked almirah and the key will remain in his custody.
- (4) The certified copy will be placed on record of the suit and will serve the purpose of persons inspecting the record. An inspection of the file documents will only be allowed in exceptional circumstances and will take place in the presence of the Munsarim and under his control, and on its termination, he will certify that he has counted the documents and seen that none has been damaged or obliterated.
- (5) The file of documents will be produced at the hearing of the suit for the purpose of proving the documents but except when the file is being shown to a witness, the file will remain on the table of the Presiding Officer. On the termination of the hearing, the Munsarim or Reader will take the file into his custody.
- (6) When a record comes to an appellate court, the file of documents will be kept in the custody of the Munsarim or the Reader, as the case may be, of the appellate court.
- (7) A party may ask the court to put any other document into a sealed cover on the record or to add any document to supplementary file 'C' and the court may do so if it thinks fit.
- (8) After final disposal of a suit and orders on appeals if any supplementary file 'C' with index will be added enblock to main file 'C' before consigning the record to the record-room.

13. Munsarim's certificate as to papers on record.—

Before a record or part of a record is deposited in the record-room, the Munsarim or Reader shall record a certificate in the following form at the foot of the general index:—

"I have this day of examined the papers in this part and find them to correspond with the general index; they bear (here state number) court fee stamps of the aggregate value of Rs. All orders have been carried out. The file is complete up to the date of this certificate."

When a record or part of a record has been taken from the record-room into court, and any fresh papers have been added to it, the Munsarim or Reader shall, before the record or part is again deposited in the record- room, record a further certificate in the same form as above, at the foot of any fresh entries in the general index. Such further certificate shall refer to the added papers only.

ORDER 25

RECORD-ROOM AND THE PRESERVATION AND DESTRUCTION OF RECORDS

1. The Record-room-

- (1) Every data shall be preserved in digital/ electronic form on electronic storage media in due course with the mechanism of retrieval as and when required in terms of the provisions of Information Technology Act, 2000 as amended time to time.
- (2) Any record or papers can be destroyed after one year of digitization reckoning from 31st December next ensuing digitization.
- (3) Till digitization of record in digital/ electronic form on electronic storage media with the mechanism of retrieval as provided in preceding rules, following rules shall apply in matter of preservation and destruction of record.

2. Racks for each court—

A separate part of a rack or one or more separate racks in the record-room shall be, as far as possible, assigned to each court the records of which are consigned in the record-room.

3. Arrangement of records—

Records shall be kept in accordance with the dates of disposal of the cases to which they relate.

Records of different kinds of cases, e. g., original suits, appeals, shall be kept separately.

Records of execution cases relating to the same decree shall be kept together.

Records of execution cases shall be kept in the same order in which the records of the corresponding original suits are kept.

4. Transmission of record to record-room—

(1) At the beginning of every month, the complete record of all suits, appeals or other cases decided during the month shall be made up into a bundle; and on or before the twenty-fifth day of the month or as directed by the District Judge, they shall be transmitted to the record-room.

(2) Records of miscellaneous cases relating to suits shall not be sent in the monthly bundle.

(3) Records of cases in which proceedings are stayed or in which proceedings are held-up for any reason shall not be consigned to the record-room.

(4) Every subordinate court shall on the 28th of every month submit a certificate to the District Judge to the effect that all records which should have been transmitted to the record-room have been so transmitted or explain the cause of delay, if any, records have not been transmitted. For the District Judge's court this shall be done by the Munsarim of his court.

(5) If a completed record is required for use in the court in which it was completed, or it has been requisitioned by another court, or if, for any other reason, a completed record is not sent to the record-room at the time specified in this rule; there shall be sent to the record-keeper, in the monthly bundle, in place of every such record, a copy of the form of requisition (**F.130**) under which it has been detained, or transmitted elsewhere; the record keeper shall deal with this as an original requisition.

(6) An insolvency case wherein an order of adjudication has been made, shall not be deemed to be completed until the insolvent is discharged.

(7) The records of decided execution cases shall be consigned to the record-room at the end of each month in the manner indicated in sub-rule (1). They shall be kept in the record-room in the manner indicated in Rule 3.

5. Each bundle transmitted to accompany certain list of contents.—

Each bundle transmitted to the record-room shall be accompanied by a list of the records it contains prepared by the official in charge of the records and signed by the Munsarim or the Reader of the court, as the case may be. The list shall be prepared in duplicate on the prescribed form (**F.125**) and a copy thereof shall be kept on the top of the records before the bundle is closed, while the other copy duly signed by the Record-keeper shall be kept with the Munsarim or the Reader of the court concerned, as the case may be.

6. Procedure to be followed by a record-keeper-

With the bundle shall be sent an invoice in the prescribed Form **(F.126)**, the upper portion of which shall be filled up by the court transmitting the record and shall be signed by the Munsarim or the Reader of the court, as the case may be. On receipt of the bundle the record-keeper after comparing the entries in the invoice with the lists accompanying the bundles and with the number of records of each class actually received, shall if the invoice be found to be correct, sign the acknowledgment at the foot of it, and return it to the court from which it was received. If the invoice be found to be incorrect, the record-keeper shall acknowledge the receipt of the record actually received, and shall report the discrepancy for the orders of the Presiding Officer in-charge.

7. Packing and transmission—

Each bundle shall be sewn up and sealed in the presence of the Chief Ministerial Officer of the court. In outlying courts at places where there are no record-rooms, the bundles of each class shall be sewn up into one large bundle and placed in a strong tinlined box provided with duplicate keys, one of which shall remain in the court transmitting the records and the other in the court to which the record-room is attached.

8. Transmission of registers and books—

The rules for the transmission of record shall apply, mutatis mutandis to the transmission of registers and books.

9. Bundles pending examination—

The bundles of records as received by the record-keeper shall, pending his examination under the next rule, be kept in racks set apart for the purpose.

10. Record-keeper's examination of record received—

As soon as may be after the bundles have been received, the record-keeper himself or through his deputy or assistant record-keeper shall compare the papers in each record with the general index and satisfy himself :—

- (1) that the papers in the record correspond with those entered therein;
- (2) that each file contains the papers properly appertaining to it;
- (3) that the document in the record bear no blots, erasures, or interlineations, except those noted in column 8 of the general index;
- (4) that the papers bear the stamp entered in column 6 of the general index;
- (5) that the stamps have been duly cancelled ;
- (6) that on each paper the number and aggregate value of the stamps on it have been recorded ;
- (7) that the rules made by the Government for regulating the number of stamps to be used for denoting fees have been complied with;
- (8) that there is nothing suspicious in the appearance of the stamps;
- (9) that all orders and exhibits have been duly signed;
- (10) that all necessary receipts are in the record.

11. Record keeper's certificate of correctness or report to District Judge—

If the record be found to be in order, the record-keeper, the deputy record-keeper, or the assistant record-keeper, as the case may be, shall record a certificate to that effect in the general index. If the record be found to be defective in any respect, he shall in writing report its condition for the orders of the Judge in-charge; and the report with other papers consequent on it shall, after being entered in the general index, be filed with the record. Such report shall be made on the printed form **(F.127)** prescribed by the High Court.

If the judge orders the file to be returned for correction, the record-keeper shall make corresponding entries in the form and deal with the form as if it were issued on receipt of a requisition from a court.

Where the court, of which the record has been found defective, is at headquarters, it will be preferable, as a rule, to send for the clerk at fault and have the necessary corrections carried out in the record-room. The record while under correction and the clerk correcting it should always be under the immediate eye of the record-keeper or of a deputy record-keeper.

12. Examination when to be completed—

The examination of the records of each bundle received in the record-room shall be completed within a month from the date of receipt.

13. List to be stitched into books—

As soon as the examination of the records in each bundle is completed, the lists which accompanied the bundle, shall be stitched into a file book and ordinarily at the end of the calendar year, the lists if each class of records shall be separately bound up for each court, so as to constitute registers of decided cases.

No other register of decided cases shall be kept up in the record-room. If in any calendar year the number of sheets in any list is too small, the list may be bound up at the end of 2 to 5 calendar years as convenient.

14. Second punching of labels—

When a case is decided and consigned to the record-room, the record-keeper, the deputy record-keeper or assistant record-keeper shall punch a second hole in each court-fee label distinct from the first and note the date of his doing so at the same time. The second punching shall invariably be made in the middle of that part of the label on which its value is printed but shall not remove so much of the stamp as to render it impossible or difficult to ascertain its value or nature.

15. Arrangement of records in bundles—

(1) The record of a miscellaneous case arising out of a case, shall be placed along with the record of that case.

(2) The records of other miscellaneous cases shall be kept in separate bundles.

16. Treatment of miscellaneous cases relating to pending cases—

When a miscellaneous case has been disposed of in a month and the main case out of which it has arisen is pending, the record of the miscellaneous case will be kept with that case.

17. Arrangement of records and labelling of bundles—

In the bundle, the records shall be kept according to their serial number in the list or register of disposed of cases, the bundles shall be so arranged as to secure better facility of access to more recent records.

On each bundle shall be painted, by means of a stencil plate or otherwise the year and month and the class of records and to each bundle shall be attached a label showing by their serial numbers the earliest and latest records, for the time being, belonging to that bundle.

The Judge-in-charge may assign different coloured bastas to the different courts from which records are received.

18. Period of retention of books and register in Court before consignment to record-room—

The following registers and books shall be retained in each court for the period specified against each:—

S. No.	Description of Register or book	Register No.	Reference to Rule	Period of retention in the Court
1	2	3	4	5
1.	Dispatch register	252 & 253	Order 27 Rule 4	One year after completion
2.	Register of Miscellaneous Judicial cases not relating to suits or other cases.	240	Order 27 Rule 1	One year after completion
3.	Register and books kept by Amins	254 to 257	Order 27 Rule 5, 6	One year after completion
4.	Register of receipts of deposits	221	Order 15 Rule 8	Three years after the items recorded in the register have been disposed of.
5.	Register of applications for execution of decrees and orders.	239	Order 27 Rule 1	Twelve years after completion.
6.	Register of Civil suits.	238	Order 27 Rule 1	Fifteen years after completion.

All other registers, books and papers specified in rules below shall be retained until completion.

Not later than 31st March following the period above prescribed for retention, the books, registers and papers shall be forwarded to the record-room accompanied by a list in the prescribed form **(F.128)**. The list shall be pasted into a file book kept for the purpose in the record-room, a separate file being assigned to each court.

Provided that, aforesaid Registers can be destroyed after One year of digitization of record reckoning from 31st December next ensuing after the digitization.

Provided, further that the data shall be preserved in digital/ electronic form on electronic storage media with the mechanism of retrieval as and when required in terms of the provisions of Information Technology Act, 2000 as amended time to time.

19. Preservation and destruction of records.—

- (1) Part-A of Civil records of Class I shall be preserved permanently.
- (2) Part-A of Civil records of Class II shall be preserved for 50 years.
- (3) Part-A of Civil record of Class III shall be preserved for 24 years.

- (4) Application under order XXI, Rule 11 of the Code of Civil Procedure.— In the case of execution applications of money decrees the record shall be preserved for 12 years from the date of the final decision in the execution case except in cases where an appeal or revision or any other proceeding against the order of the executing court is pending in a higher court or immovable property has been attached in which case the record shall be preserved for 24 years.
- (5) Parts B and C of Civil records of Class I shall be preserved for 12 years.
- (6) Parts B and C of Civil records of Classes II and III shall be preserved for 6 years.
- (7) Part-D of Civil records of all Classes shall be preserved for 3 years :
 Provided that in cases in which an appeal or revision or any other proceeding against the decree or order of the court is pending in a High Court, the entire record shall be preserved till the intimation is received from such higher Court about the decision of such appeal or revision or such proceeding and till the period of limitation for filing further appeal or revision expires.

20. Period of retention of papers.-

The following papers shall be destroyed on the expiration of the period specified against them computed from 1st January, of the year succeeding that to which they relates (mentioned in the table)

S. No	Description of paper	Register / book/ Form No.	Reference to rule	Period of retention after date of last entry
1	2	3	4	5
1.	Counterfoils of Amin's payment order	F.134	Order 30 Rule 21	Three months
2.	Counterfoils of cash receipt books of Amins.	F. 133	Order 30 Rule 20	One year
3.	Invoice counterfoil	F. 126	Order 25 Rule 6	One year
4.	Counterfoils of receipts granted for payment into court.	F. 151	Order 37 Rule 4	One year
5.	Periodical statements, returns and office copies of the same, except annual returns and statements.			One year
6.	Proceedings of other courts and office forwarding summons, notices proclamations and the like.			One year
7.	Proceedings of lower courts calling for records asking for information and the like.			One year
8.	Reports from Ministerial Officers not relating to particular suits or cases.			One year
9.	Applications for leave, or from candidates for employment or any other proceedings, reports and applications not relating to			One year

	particulars suits or cases.			
10.	Applications for renewal of certificates of pleaders and cancelled certificates.			Two years
11.	Counterfoils of certificate for refunds of payments of court-fees.	F.132	Order 29 Rule 24, 26	Three years
12.	Counterfoils of repayment order books.			Twelve years

21. Period of retention of Books-

(1) The following books shall be retained for periods specified against them (mentioned in the table)

S. No.	Description of Books	Register/ Book/ Form No.	Reference to Rule	Period of retention after date of last entry
1	2	3	4	5
1.	Register of persons committed to jail.	243	Order 27 Rule 1	One Year
2.	Memorandum Book of dates.	213	Order 10 Rule 1	-do-
3.	Register of proceedings taken in execution of order received from the High Court	244	Order 27 Rule 1	-do-
4.	Despatch registers	252- 253	Order 27 Rule 4	-do-
5.	Process register	250	Order 27 Rule 4	-do-
6.	Process servers diary	231	Order 19 Rule 28	-do-
7.	Register of order issued to Amins	254	Order 27 Rule 5, Order 30 Rule 23	Three years
8.	Amins diary	255	Order 27 Rule 6	One year
9.	Amins proceedings register	256	Order 27 Rule 6, Order 30 Rule 23	One year
10.	Register of fines, stamp duties and penalties levied	263	Order 37 Rule 8, 17	One year
11.	Register of applications for copies	203	Order 6 Rule 3, 5 & 14	-do-
12.	Inspection register	202	Order 2 Rule 16	-do-
13.	List of unexpended petty deposits	221	Order 15 Rule 8	Three Years
14.	Amin's Property/ Cash register	257	Order 27 Rule 6, Order 30 Rule 23	-do-

15.	Register of money orders received	224	Order 15 Rule 8	-do-
16.	Register of Travelling Allowance bills	228	Order 15 Rule 8	-do-
17.	Register of court-fees and process-fees	258	Order 27 Rule 7, Order 43	-do-
18.	Register of casual leave	214	Order 10 Rule 3	-do-
19.	Stock-Book of Stationery & other consumable Articles	206	Order 8 Rule 2	Five years after completion.
20.	Register of civil suits	238	Order 27 Rule 1	Sixty Years
21.	Register of disposal of applications for execution of decrees and orders	239	Order 27 Rule 1	Six years
22.	Register of records requisitioned and returned	249	Order 26 Rule 8, Order 27 Rule 1, Order 42 Rule 4	Six years
23.	Register of appeals from decrees disposed of	245	Order 27 Rule 2	Six years
24.	Cash-book	227	Order 15 Rule 8	Twelve years
25.	Register of miscellaneous cases (judicial) relating to other cases	242	Order 27 Rule 1	Twelve years
26.	Register of returned documents	241	Order 27 Rule 1	Twenty years
27.	Register of letters received	207	Order 9 Rule 4	Twenty years
28.	Register of letters issued	208	Order 9 Rule 5	Twenty years
29.	Register of Execution	239	Order 27 Rule 1	Twenty years
30.	Register of receipts of deposits/ Repayment and lapsed amount.	221	Order 15 Rule 8	Twenty years
31.	Register of miscellaneous judicial cases not relating to other cases	240	Order 27 Rule 1	Twenty years
32.	Register of miscellaneous appeals	246	Order 27 Rule 2	-do-
33.	Register of appeals from decrees	245	Order 27 Rule 2	-do-
34.	Classified catalogue of books	218	Order 12 Rule 1	Permanently
35.	Stock register of furnitures	272	Order 48 Rule 15	Permanently
36.	Register of closed registers	236	Order 27	-do-
37.	Register of general letters and circulars	210	Order 9 Rule 15	-do-
38.	File books of standing orders and circulars			-do-

- (2) Before destruction of the service book of members of staff should be verified and a note to that effect be made in the service book of concerned:

Provided that no court subordinate to the District Judge shall cause any book to be destroyed under this rule without having first obtained his permission in writing to do so.

22. Monthly destruction of files or parts.—

Month by month, the files or parts of which the period for retention has expired, shall be removed from their records under the personal superintendence and responsibility of the record keeper and shall be sold as waste paper in accordance with the instructions contained in these Rules.

23. Powers of District Judge in regard to destruction of paper.—

- (a) The District Judge may in his discretion, direct the retention, for a longer period or permanently of papers which he may consider likely to be useful in future, as containing the results of inquiries or other information or the opinions of experienced officers, on matters connected with the general administration of Justice or of historical importance.
- (b) No court subordinate to the District Judge shall cause any papers or records relating to Accounts, Establishment or general administration to be destroyed without obtaining the sanction of the District Judge.
- (c) Where no period for weeding any record, book or register is prescribed, the District Judge shall order their destruction at his discretion, and refer doubtful cases, if any, to the High Court for instructions.

24. Destruction of files selected for weeding.—

In the week of each quarter of the year, the record-keeper shall submit to the Officer in-charge a list (**Return No.4**) of those cases in which he has weeded out file 'C' and in which there are cumbrous and bulky exhibits, such as account books, khatas, zamindari papers and the like which have not been put up with the record of the trial.

The Officer in-charge, unless he sees cause to the contrary shall cause a notice to be issued to the counsels or the parties concerned that if such exhibits are not removed within the period specified in the notice, they will be disposed of as waste paper on the last day of the quarter in which notice is issued.

The notice will be in the prescribed form (**F.129**) and the Record keeper shall be responsible that the notice is issued without delay.

ORDER 26

Production Return and Transmission of Records

1. Prohibition against issue of records—

Ordinarily no record shall be issued, however on the requisition of a Civil, Criminal or Revenue Court, of a Tribunal, of the Government, of the Board of Revenue, of Commissioner of Excise, of the Inspector General of Registration and Stamps and of any Government official who requires the record in discharge of his official duties, record can be issued by order of the Presiding Officer after placing on record the certified copy of concerned record.

2. Forms of requisitions—

Every requisition for a record or portion of a record shall be made in the prescribed Form (**F.130**). It should also be stated specifically in the requisition why certified copies obtained in the usual manner by the parties will not serve the purpose, and that the proper court fee has been realized.

3. Procedure for sending requisitions out of Rajasthan—

A requisition under Order XIII, Rule 10 of the Code, a record pertaining to, and in the custody of a High Court, other than the Rajasthan High Court, or pertaining to, and in the custody of, a Court subordinate to such other High Court, shall be transmitted through the Rajasthan High Court at Jodhpur, and shall be accompanied by a copy of the affidavit required under that provision together with a duly certified translation into English, if such affidavit be not in Hindi. Such requisition shall be forwarded to the High Court with a forwarding letter clearly indicating the suit, appeal or proceeding in which the record is required.

4. No Charges payable on requisition by court suo moto—

When a requisition for a record is made by a Court suo moto, the fact should be stated in the requisition and no charges shall be levied from any party.

5. Charges payable by a party for requisition—

When a record is requisitioned at the instance of a party, a court fee of Re. 1 shall be charged as in the case of inspection of records. In applications for refund, the procedure laid down in that connection will also be followed. This fee shall be in addition to the court fee prescribed by the Rajasthan Court Fees and Suits Valuation Act No. XXIII of 1961.

6. Provision governing issue of record—

- (1) When, at the instance of a party, a court requisitions a portion of a record, it shall require the party to file a certified copy of the portion required, and such copy shall be attached to the requisition. The copy of copies will be placed on the record and then the original document or documents shall be sent. When the portion of the record is received back in the court or record room, the applicant shall be entitled to have the copy returned to him on application for the same.
- (2) When it is not possible to obtain the certified copy of the portion required by the party, concerned party shall file an affidavit to

this effect and copy of such affidavit shall be attached to the requisition. The copy of affidavit will be placed on the record and then the original document or documents shall be sent.

- (3) Where the record is deposited in the same building it may often be more convenient to send the whole record and not merely the portion requisitioned. In such cases, the whole record and not merely the portion asked for may be sent in answer to the requisition.

7. Record keeper's procedure—

No requisition for a record or portion of a record shall be complied with except in accordance with an order of the High Court, the District Judge or of the Presiding Officer of the Court, in which the record is. The record keeper or, with the sanction of the judge or the Presiding Officer, as the case may be, the clerk in-charge of the record on receiving such order, shall comply with the same and shall send the record or the portion under cover of the prescribed for transmission (**F.131**). The form shall be filled up by the Record-Keeper or by the transmitting court, and in the remarks column the record-keeper or Munsrim or the Reader, as the case may be, shall certify whether the record or portion does or does not contain all the papers entered in the general index or general index in relation to that portion of record. The form of requisition received shall be placed in the bundle from which the record was taken.

8. Register of requisitions—

The record-keeper and the Munsarim or the Reader, as the case may be, of each court shall keep a register of requisitions for record (**Register No.249**) and shall fill up relevant column as soon as the requisition is received and when the record is transmitted.

A separate register of requisition shall be kept by each assistant in the record room in-charge of records of a court or group of courts.

9. Return of Records—

When the record or a portion of a record is no longer required, it shall be promptly returned to the record-room or the court from which it was received, as the case may be, the necessary entries on the form of transmission shall be made, and the original form shall be filed in the suit for the purpose of which the record or portion was sent for, and a copy of this form shall be returned with the record or portion. In the remarks column of such copy the Sr. Munsarim or the Reader as the case may be, of the court returning the record or portion shall certify whether the record or portion does or does not contain all the papers entered in the general index or general index in relation to that portion of the record.

10. Procedure on return of record—

On receipt of the record or portion, the record-keeper or Munsarim or the Reader, as the case may be, shall deal with it in the manner, mutatis mutandis described in rule 16. In the case of records or portion returned to a record-room, relevant applicable procedure laid down in rule shall be followed. The record-keeper or Munsarim or the Reader, as the case may be, shall then fill up relevant columns of the register or requisition and shall file the requisitions with the record or portion, and replace the record or portion in its bundle. The copy of the form for transmission, returned with the record or portion shall then be destroyed.

11. Check on delay in return of records—

Once every three months the record-keeper and the Munsarim or the Reader, as the case may be, of the courts shall lay the register of requisitions before the District Judge or the Presiding Officer for orders as to records or portions which have been issued more than three months and have not been returned.

12. Records of cases appealed to the High Court—

Records of cases appealed to the High Court shall be submitted forthwith on receipt of the precept calling for them, when the subordinate court is unable to comply with the precept within the time fixed for the purpose, it shall submit a report stating—

- (1) the number of the High Court's precept;
- (2) the number of the case in which the precept was issued;
- (3) the names of the parties to the case;
- (4) the reason for non-compliance;
- (5) the date by which the compliance is likely to be made.

If the compliance cannot be made by such a date, a further report shall then be made.

- (6) Records of case appealed to the High Court will be returned for deposit in the record room of the District Judge after the expiration of 6 months from date of judgment in cases appealable to the Supreme Court and after 90 days in other cases.

13. Loss of record—

- (1) Whenever it is discovered that a record or portion of a record or a document on the file of a record is missing, the loss or theft shall be immediately reported in writing to the Judge, in whose district or office the loss or theft has occurred and he in turn shall report the fact to the High Court and state the steps taken to try and recover the paper or papers missing.
- (2) If such lost or untraceable record is not recovered within 6 months of such report then steps shall be taken to reconstruct the same.
- (3) Steps for reconstruction will be taken after obtaining permission from the District Judge concerned. In case the lost record of the court of District Judge then step taken for reconstruction of the same will be intimated to the High Court by the District Judge.

14. Records pertaining to a court—

Every requisition for a record or a portion of a record pertaining to a court in a foreign country shall be sent to the High Court for being forwarded to the Ministry of the Government of India dealing with Foreign Affairs and shall invariably be accompanied by an affidavit in the terms of Order XIII, Rule 10 of the Code. It should be stated by the court summoning the record or a portion of it whether it has satisfied itself that the production of the original record or a portion of it is actually necessary.

Transmission

15. How to send records—

The following instruction shall be observed in connection with the transmission of records to the High Court and with the transmission upon requisition of records from one court to another and from a record-room to a court and vice-versa.

- (1) Except in the cases provided for in paragraph (5) of this rule, records shall be sent either by registered post parcel or by

passenger train. Those sent by post parcel shall be, between July and November, securely packed in wax cloth and sealed along the seams at intervals of not more than 4 inches. Those sent by rail shall be carefully placed either in gunny bag similarly sealed or in well secured wooden box.

- (2) The postage and the registration fee in the case of parcels sent by post shall be fully prepaid by means of postage stamps. Similarly, in the case of parcels sent by train, the freight shall be prepaid.
- (3) No parcel sent by post shall include, papers referring to more than one case. If papers referring to more than one case are enclosed in a parcel, or box sent by rail, a list shall always be placed in the box containing the number of each record or portion thereof and its weight as a separate parcel.
- (4) All parcels sent by post or by rail shall be weighed before dispatch in the presence of the Munsarim or the Reader or record-keeper, as the case may be, and the weight shall be noted outside.
- (5) When the court requiring a record, is in the same station, as the record-room, or the transmitting court, the record may be sent by Government messenger, but it shall be secured by seals in such a manner as to prevent the record being opened or papers abstracted in transit without the seal being broken or the fastening severed.
- (6) An acknowledgment shall be invariably required from the court to which a parcel containing a record has been sent and in the event of none being received within a reasonable time, the matter shall be brought to the notice of the Presiding Officer, and an inquiry made to ascertain the cause. Such intimation shall also be sent by email.

16. Examination of records on arrival—

- (1) On arrival, the parcel containing the record shall be received by the Munsarim or the Reader, as the case may be. He shall examine it and have weighed. If it appears intact and not open to suspicion he shall then make it over to the clerk in-charge of the records, who shall forthwith check the papers it contains, and see that they agree with the general index and order sheet. If the record is found correct, it shall be so stated by the clerk in the form of acknowledgment. If the record is found to be in any way defective, a report shall be made without delay to the Presiding Officer.
- (2) If any parcel received by Munsarim or the Reader, as the case may be, appears to have been tampered with, he shall have it opened in the presence of an official of the post office or railway in accordance with rules of those departments. He shall himself check the papers and if any paper(s) to be missing, he shall at once bring the matter to the notice of the Presiding Officer.

17. Applications of preceding rules to production, return and transmission of registers, books etc—

The above rules will also apply to the production, return and transmission of registers, books, etc.

ORDER 27

Civil Court Registers

1. Registers to be maintained in all courts—

Notwithstanding otherwise provided in these rules, the concerned clerk in every Civil Court shall regularly maintain the registers mentioned in **Appendix-E**.

- (1) Register of Civil Suits (**Register No.238**).
- (2) Register of execution applications (**Register No.239**).
- (3) Register of Miscellaneous Judicial cases not relating to other cases (**Register No.240**), a list of which is printed on the form in the appendix.
- (4) Register of Returned Documents (**Register No.241**),
- (5) Register of Miscellaneous Cases judicial, relating to other cases (**Register No.242**).
- (6) Register of persons committed to jail (**Register No.243**).
- (7) Register of proceeding taken in execution of orders received from the High Court (**Register No.244**)
- (8) Register of records requisitioned and returned (**Register No.249**)
- (9) Register of person summoned and examined (**Register No.259**)
- (10) Register of injunctions and stay orders (**Register No.237**).
- (11) Register of Closed Registers (**Register No.236**).

2. Additional Registers for appellate Courts—

(a) The following registers shall also be maintained in the Courts exercising appellate powers:—

- (1) A Register of Appeals from Decrees (**Register No.245**)
- (2) A Register of Miscellaneous Appeals from order (**Register No.246**)

3. All Civil Courts authorized to hear revisions under the Gram Panchayat Act shall maintain a Register of Revisions under Gram Panchayat Act (Register No.247**).**

All Civil Courts authorized to hear revisions under the Rajasthan Relief of Agricultural Indebtedness Act, 1957 shall maintain a Register of Revision under the Rajasthan Relief of Agricultural Indebtedness Act, 1957 (**Register No.248**)

4. Nazir's Registers and dispatch Register—

Every Nazir shall maintain.—

- (1) A Process Register (**Register No.250**)
- (2) A Register of Peons (process servers) (**Register No.251**)
- (3) Dispatch Register (Local) (**Register No.252**)
- (4) Dispatch Register (Postal) (**Register No.253**)
- (5) The Dispatch Register may be used by court officials and by the Central Nazir or Nazir for transmission of papers other than returns of service of processes to and from their respective offices.

The Peons Register shall have separate pages allotted for entries about the work of every process server.

It shall be written up by the Nazir or officer deputed by him upon the return of a process server after serving a warrant, summons or notice.

At the end of the month the several columns shall be totalled up. In the remarks column the District Judge and the officer-in-charge of

the Nazarat shall give such remarks and orders as they consider necessary.

5. Register of orders to Amin—

In every Civil Court a register shall be maintained in the prescribed form (**Register No.254**) of all orders issued to Amins. This register shall be checked by the Presiding Officer weekly and he shall note in his own handwriting, whether explanation given of delay is or is not satisfactory, and if it is not what orders have been passed.

6. Register to be kept by Amins—

Every Amin shall keep in his own handwriting a Diary in the prescribed form (**Register No.255**), a proceedings Register (**Register No.256**) a property Register and Amin's Cash Register (**Register No.257**).

7. Register of process-fees and Court-fees—

A register of Court-fee and process-fees (**Register No.258**) shall be kept in each Court by such officer as the Presiding Officer may appoint.

8. Work under different legislation—

(1) Where any appeal, case or execution application under any existing law or under any law which may be made thereafter, other than those provided for in the Code or in these rules is instituted in any Civil Court, it shall be treated for statistical purposes as a regular appeal, miscellaneous case, or execution proceeding; as the case may be, and entries will be made in the appropriate registers and in the periodical returns accordingly:

Provided that where any election case is instituted in any court in accordance with any law such a case shall be treated as a regular suit for statistical purposes.

(2) In the remarks column of the registers, the section and the Act under which such appeals, cases or execution applications are instituted shall always be noted, and in the periodical returns, the figures for each type of appeals, cases or execution applications shall be separately shown and at the bottom they should be totalled.

9. Forms of Registers—

Forms of the registers to be maintained are given in **Appendix-E**.

ORDER 28

Returns and Reports

1. **Quarterly Statements of work done and pending files—**

Every subordinate court shall submit to the District Judge by the 10th April, 10th July, 10th October and 10th January, a statement in soft copy of the work done in that court during the quarter ending 31st March, 30th June, 30th September and 31st December **(Return No.5)**.

The District Judge shall by the 15th of April, 15th of July, 15th of October and 15th of January send to the High Court a similar statement showing the work done in his court during the quarter ending 31st March, 30th June, 30th September and 31st December **(Return No.5)** along with the quarterly statement for his court the District Judge shall send to the High Court the statement of the work done in the Courts subordinate to him.

On receipt of these statements District Judges shall make such short comments as they may think necessary and shall send comments with any necessary orders to the officers concerned, forwarding a soft copy to the High Court for information.
2. Every subordinate court shall submit to the District Judge by the 10th April, 10th July, 10th October and 10th January a quarterly statement in soft copy of pending regular suits and executions stayed by orders passed by High Court **(Return No.6)**. The District Judge shall then by the 15th April, 15th July, 15th October and 15th January send a consolidated statement in soft copy (including cases of his own court) for the regular suits and execution stayed by the High Court **(Return No.6)** to the High Court.
3. **Annual Report (Return No.9)—**

District Judges shall submit to the High Court a report for the year on the administration of Justice in his/her judgeship. The following matters shall be noticed in the Annual Report. —

 - (1) the condition of judicial buildings;
 - (2) the preparation, arrangement and transmission of records;
 - (3) the cancellation of stamps;
 - (4) the classification, registration of correspondence, circulars and returns;
 - (5) the distribution and preservation of circulars and, general letters;
 - (6) the destruction of records;
 - (7) the condition of the District Court Library;
 - (8) the result of inquiry into the sufficiency of security given by members of staff wherever necessary;
 - (9) the working of the rules under section 71 of the Rajasthan Court Fees & Suits Valuation Act, No. 23 of 1961.
 - (10) the condition of accounts of the courts;
 - (11) the working of the rules relating to Courts;
 - (12) the observance of the rules as to hours of sitting;
 - (13) the observance of the rules relating to check of Amin's work by the Officer-in-charge;
 - (14) any work done by an officer which does not appear in the returns e.g. election work, work in administrative tribunals. The number of days spent over such a work shall also be indicated; and
 - (15) Proposals for new courts with proper justification.

In the preparation of their annual reports, officers should refrain from the expression of censure or criticism of officers of other departments of the Government. If it is though necessary than it should be brought to the notice of the High Court by a separate report for further action.

- 4. Remarks about subordinate Judicial Officers—**
Along with or soon after the annual reports, before the end of February each year, District Judges should forward confidentially to the High Court, their remarks on the prescribed form **(Return No.10)** about subordinate judicial officers.
- 5. Restriction against calling for extra returns by the District Judges—**
In calling for returns other than the ordinary returns to enable him to supervise work, the District Judge shall see that such returns are brief in form and easily collected from existing registers.
- 6. Examination of adequacy of Securities—**
The adequacy of all securities shall be examined every year between April and June 30. When it appears to the District Judge that the value of a security has from any cause become insufficient, he shall call upon the official for whom such security was furnished to furnish adequate and sufficient security within a definite time and he shall in the mean time obtain a personal bond with sureties for the deficiency of his security. When there has been no mutation of ownership or sensible depreciation of the property pledged, it will be unnecessary to renew the security bond.
- 7. List of returns and reports and forms thereof—**
List of returns and reports to be submitted and forms thereof are given in **Appendix-F**.

ORDER 29

PROCESS FEES AND COURT FEES.

Process Fees

1. Scale of process fees and poundage.—

In all the civil courts in Rajasthan, the fee exhibited in the following table shall be charged for serving and executing the several processes against which they are respectively ranged:—

Table of fees

Article 1.—

Summons to defendants, notice of appeal or other notice to respondents and notice to non-petitioners and judgment debtors :

(a) When they are not more than four in number one fee
Rs.10/-¹⁹.

(b) When they are more than four in number then the fee above mentioned for the first four, and an additional fee for every such person in excess of four :
Rs.5/-²⁰

Provided that the aggregate amount of the fees levied under this article shall not exceed
Rs.100/-²¹

Article 2.—

Summons to witnesses when the witnesses are not more than four in number, one fee
Rs.10/-²²

When such witnesses are more than four in number, then the fee above mentioned for the first four, and an additional fee for every such witness in excess of four
Rs.5/-²³

Article 3.—

Every order of attachment
Rs.50/-²⁴

Article 4.—

In respect of the services of the officer making an attachment in the manner prescribed in Order XXI Rules 43, 44, 51 and 54 and section 46 of the Code when the property is to be attached in one town or village only, one fee—
Rs.50/-²⁵

When property is to be attached in more than one town or village, then the fee above mentioned for the first town or village specified in the order of attachment, and an additional fee of three rupees for every other town or village :

Provided that the aggregate amount of the fees levied under this article shall not exceed ²⁶hundred rupees

Article 5.—

Every warrant of arrest in respect of each person to be arrested
Rs.50/-²⁷

¹⁹ . Substituted vide Notification No. 01/S.R.O./2020 dt. 26.02.2020 Pub. in Raj.Gaz.Ext.Pt-I (b)dt.27.02.2020
²⁰ . Substituted vide Notification No. 01/S.R.O./2020 dt. 26.02.2020 Pub. in Raj.Gaz.Ext.Pt-I (b)dt.27.02.2020
²¹ . Substituted vide Notification No. 01/S.R.O./2020 dt. 26.02.2020 Pub. in Raj.Gaz.Ext.Pt-I (b)dt.27.02.2020
²² . Substituted vide Notification No. 01/S.R.O./2020 dt. 26.02.2020 Pub. in Raj.Gaz.Ext.Pt-I (b)dt.27.02.2020
²³ . Substituted vide Notification No. 01/S.R.O./2020 dt. 26.02.2020 Pub. in Raj.Gaz.Ext.Pt-I (b)dt.27.02.2020
²⁴ . Substituted vide Notification No. 01/S.R.O./2020 dt. 26.02.2020 Pub. in Raj.Gaz.Ext.Pt-I (b)dt.27.02.2020
²⁵ . Substituted vide Notification No. 01/S.R.O./2020 dt. 26.02.2020 Pub. in Raj.Gaz.Ext.Pt-I (b)dt.27.02.2020
²⁶ . Substituted vide Notification No. 03/S.R.O./2020 dt. 02.09.2020 Pub. in Raj.Gaz.Ext.Pt-I (b)dt.18.09.2020
²⁷ . Substituted vide Notification No. 01/S.R.O./2020 dt. 26.02.2020 Pub. in Raj.Gaz.Ext.Pt-I (b)dt.27.02.2020

Article 6.—

In a respect of the services of each official in whose custody a judgment-debtor is left under Order XXI Rule 40(3) of the Code per diem Rs.50/-²⁸

Note :— Fees will be paid under this article in advance for such period as the court may from time to time direct.

Article 7.—

Every order for the sale of property—

(a) in respect of the order of sale Rs.50/-²⁹

(b) by way of poundage on the full amount of the purchase money—

If the sale be effected through a broker under order XXI Rule 76 of C.P.C. (Act No. V of 1908).The Commission payable to the broker and in addition a sum equal to one quarter of such commission.

Note:— The portion (a) of this fee must be paid when the process is obtained, and the poundage (b) at the time and in the manner prescribed in these rules.

S.No.	Amount	Rate
1	Upto Rs.10,000/-	2.5% ³⁰ of the amount
2	Above Rs.10,000/- and not exceeding Rs.1,00,000/-	Rs.250/- ³¹ +1.5% ³² of amount exceeding Rs.10,000/-
3	Above Rs.1,00,000/-	Rs.1600/- ³³ +0.5% ³⁴ of amount exceeding Rs.1,00,000/- subject to maximum of Rs.10,000/- ³⁵

Article 8.—

In respect of the services of the officer making delivery of possession of property under Order XXI Rule 31, 35, 36, 95, 96, 98 or 101 of the Code, or under any other law when property is to be delivered in one town or village only one fees. Rs.500/-³⁶

When property is to be delivered in more than one town or village, then the fee above mentioned for the first town or village specified in the warrant of delivery, and an additional fee of one hundred fifty rupees³⁷ every other town or village.

Provided that the aggregate amount of the fees levied under this article shall not exceed one thousand rupees³⁸.

2. Payment of process fees and other expenses—

Except otherwise provided by any rule or specially ordered by a court, no process shall be drawn up or issued for service or execution, as the case may be, until the fee chargeable under these rules has been paid in court fee stamps.

²⁸ Substituted vide Notification No. 01/S.R.O./2020 dt. 26.02.2020 Pub. in Raj.Gaz.Ext.Pt-I (b)dt.27.02.2020
²⁹ Substituted vide Notification No. 01/S.R.O./2020 dt. 26.02.2020 Pub. in Raj.Gaz.Ext.Pt-I (b)dt.27.02.2020
³⁰ Substituted vide Notification No. 01/S.R.O./2020 dt. 26.02.2020 Pub. in Raj.Gaz.Ext.Pt-I (b)dt.27.02.2020
³¹ Substituted vide Notification No. 01/S.R.O./2020 dt. 26.02.2020 Pub. in Raj.Gaz.Ext.Pt-I (b)dt.27.02.2020
³² Substituted vide Notification No. 01/S.R.O./2020 dt. 26.02.2020 Pub. in Raj.Gaz.Ext.Pt-I (b)dt.27.02.2020
³³ Substituted vide Notification No. 01/S.R.O./2020 dt. 26.02.2020 Pub. in Raj.Gaz.Ext.Pt-I (b)dt.27.02.2020
³⁴ Substituted vide Notification No. 01/S.R.O./2020 dt. 26.02.2020 Pub. in Raj.Gaz.Ext.Pt-I (b)dt.27.02.2020
³⁵ Substituted vide Notification No. 01/S.R.O./2020 dt. 26.02.2020 Pub. in Raj.Gaz.Ext.Pt-I (b)dt.27.02.2020
³⁶ Substituted vide Notification No. 01/S.R.O./2020 dt. 26.02.2020 Pub. in Raj.Gaz.Ext.Pt-I (b)dt.27.02.2020
³⁷ Substituted vide Notification No. 01/S.R.O./2020 dt. 26.02.2020 Pub. in Raj.Gaz.Ext.Pt-I (b)dt.27.02.2020
³⁸ Substituted vide Notification No. 01/S.R.O./2020 dt. 26.02.2020 Pub. in Raj.Gaz.Ext.Pt-I (b)dt.27.02.2020

3. Exemptions—

Notwithstanding Rule 1, no fee shall be chargeable for serving or executing,—

- (1) any process which may be issued by any court of its own motion;
- (2) any process issued second time in consequence of an adjournment made otherwise than at the instance of a party or an intervener;
- (3) any copy of a warrant, order or certificate pasted under Order XXI Rule 36, 54 or 96 of the Code when the fee chargeable under Article 3 or Article 7 of Part I has been paid;
- (4) any copy of summons, notice, order, proclamation or other process pasted in a court house or in the office of a Collector;
- (5) any order intimating withdrawal of attachment of postponement of sale;
- (6) any order intimating to a sales officer that permission has been given to a decree-holder to bid for or purchase property under Order XXI Rule 72, C.P.C.;
- (7) any copy of a notice of an application under Act No. VIII of 1880, Guardians and Wards Act sent to a Collector;
- (8) any order directing an officer-in-charge of a jail to detain or to release a person committed to his custody.

4. No fees to be charged for fresh service on execution of processes in certain cases—

- (1) No fee shall be charged for fresh service or execution of processes in cases in which any processes are not served on account of a mistake of the officer or fault of the process-server.
- (2) A summons or notice served under Rule 13, 14, 15 or 17 of Order V of the Code shall be deemed to have been served for the purpose of this rule, even though the service is held to be insufficient under Order V Rule 18.

5. Unexpended process fee—

- (1) No fee paid in respect of an order of attachment or an order of sale shall be refunded if the order in respect of which the fee has been paid, has been passed.
- (2) If, for any reason, it becomes unnecessary for an officer to proceed to make an attachment in the manner prescribed in Order XXI Rule 43, 44, 51 or 54 or delivery of possession of property under Order XXI Rule 31, 35, 36, 95, 96, 98 or 101 of the Code, any fee paid in respect of his services shall be refunded after a deduction at the rate of 20 percent.

6. Poundage—

When any sale in execution of a decree of a Civil Court is conducted by a Collector, a fee shall be payable by way of poundage on the full amount of the purchase-money at 5 percent.

The fee payable shall be deducted by the Collector from the sum deposited under Order XXI Rule 84 of the Code by the purchaser, and shall be credited to Government.

7. Mode of paying poundage—

- (1) When any sale in execution of a decree of a civil court is conducted by a Sales Amin, the fee payable by way of poundage, on the full amount of the purchase-money shall be paid in stamps, which shall be affixed on the first application, if any, filed for payment of such purchase-money out of court, whether it is or is not made by the person who obtained the order of sale,

or whether it does or does not extend to the whole of the purchase money. If no such application is filed, than the stamps representing the fee payable shall be affixed on the office report on which the Court has recorded its order for payment. If such an application is filed, it shall bear the requisite stamps for the fee, in addition to such stamps, if any, as are needed for its own validity :

Provided that when such fee has once been paid in full in respect of any sale, no further fee shall be payable in respect of the same sale:

Provided also that the party paying such fee shall be paid the amount of it out of the purchase-money prior to the distribution thereof among the persons entitled thereto:

Provided also that when a sale of immovable property is set aside under Order XXI Rule 92 (2) upon applications under Order XXI Rules 90 and 91 of the Code, no fee shall be payable by way of poundage on the purchase-money.

(2) When a sale of immovable property is set aside under Order XXI Rule 92(2) upon application by the judgment-debtor under Order XXI Rule 89, fees due by way of poundage shall be payable by the judgment-debtor and shall be paid in stamps affixed to the application to set aside the sale.

(3) When a sale is made under either Rule 65 or Rule 76 of Order XXI of the Code by a person other than an officer of the court, an Amin or a Collector, the procedure in this rule herein before prescribed shall be followed, but the amount of the poundage fee to be paid in stamps shall be the full amount chargeable under Rule 1, less the amount of such person's commission.

Where the amount of special Amin's commission exceeds the poundage fee chargeable under Rule 1, no such poundage fee shall be levied.

Such commission shall be payable out of the sale proceeds next after the payment mentioned in the second proviso of sub-Rule (1) of this Rule.

8. Poundage fee to be deducted from the deposit—

If default is made in the payment of purchase-money within the time specified in Order XXI Rule 85 of the Code, the fee payable by way of poundage shall be deducted from the deposit paid under Order XXI Rule 84, and stamps representing such fee shall be brought and affixed by the court on the order directing the deduction to be made.

9. Poundage less than Rupee One—

Any fraction of Rupee one in a fee payable, by way of poundage shall be remitted.

10. Wages of chainmen and incidental charges—

Incidental charges, such as the wages of chainmen and the like, shall be levied in cash. Their amount will be at the discretion of the court and they shall be paid by the party named by the court before the Amin is deputed.

11. Amin's deputation fee when sale is not held—

(1) Before an Amin is deputed to sell property a payment shall be required on the following scale to meet the expenses of his deputation in the event of no sale taking place by reason of the claim being satisfied or for any other cause :—

When the amount, including interest due upon the decree or order does not exceed Rs. 10,000/- 2% of the amount

When such amount exceeds Rs. 10,000/- but does not exceed Rs. 50,000/-Rs.200 + 1 % of the amount exceeding Rs.10,000/- subject to a maximum cap of Rs.2000/-

- (2) If the sale takes place the above amount shall be deducted from the poundage payable under rule 1 and if for any reason, it becomes unnecessary for the Amin to proceed to the place where the sale was to be held, the payment made under this rule shall be refunded, after deduction at the rate of 1 percent in the rupee or part thereof subject to a minimum of Rs.100/- and maximum of Rs.500/-. In no other case refund shall be allowed.

12. Process fees taxable as costs—

The fee paid in pursuance of these rules shall in all proceedings be deemed and treated as part of the necessary and proper costs of the party who pays them; provided that no fees or charges which have been refunded, or in respect of which a party might have obtained a refund, shall be deemed and treated as necessary and proper costs within this rule.

13. How to file process fees—

Process fees payable under these rules shall, except where otherwise indicated, be paid in adhesive Court-fee stamps pasted on a separate sheet of paper on which shall be written the particulars of the case in which the process is to be issued and the description of the process of which it be the fees.

14. Proclamation of a notice by beat of a drum—

When a notice has to be proclaimed by beat of drum (as under rule 8 (3) of Chapter V, Probate of the III Volume of the Manual of Civil Court Rules, 1984 or Order XXI rule 54, it can be done by beat of drum or any other electronic mode), the actual expenses of proclaiming the notice by beat of drum or any other electronic mode shall be levied in cash. The amount of such expenses will be at the discretion of the Court and shall be tendered in cash with every application for the issue of such notice.

15. Punching and cancellation of stamps—

- (1) Each Judicial Officer should under section 68 of the Rajasthan Court Fees and Suits Valuation Act, 1961, formally appoint an officer for the purpose of cancelling stamps. That officer, who should ordinarily be the reader for documents filed in court and the Munsarim authorized to receive any applications for documents presented before him, shall personally attend to, and be personally responsible for the strict fulfillment of the duty of receiving documents to be filed, examining the correctness and adequacy of the stamps attached thereto and immediately cancelling such stamps as are required by section 68 of the said Act. Such ministerial officer can appoint other trustworthy subordinates to do the more manual work of cancelling the stamps subject to the approval of the court, but it will be on the distinct understanding that, that officer will be personally responsible for the due execution of duty and for any defalcation or fraud that may occur in connection with it.
- (2) The Presiding Officer should see that punching is done immediately on presentation of the petitions and other documents in court.

(3) A rubber stamp in the following form shall also be used :-

CANCELLED DATED.....

- (4) It should be applied across the adhesive stamps and upon the paper on either side of it but not in such a way as to obliterate the entries thereon or to render the detection of forgeries more difficult.
- (5) Strict compliance with the provisions of section 68 of the said Act is enjoined. In all cases it should be carefully seen that the figure heads of the court-fee stamps are punched out that the pieces are destroyed, and the stamps registered before the documents to which the stamps are attached are filed or acted upon.
- (6) Every Judicial Officer should inspect and test the work of his officials from time to time so as to ensure attention to their duty and to limit opportunities for fraud. A very efficient check could be kept on any attempt to defraud Government, if each Presiding Officer examines daily some of the record he handles and if he also examines periodically bundles of records of cases dealt with by him, taken out at random from the shelves in which they are placed.

16. Aggregate value and number of stamps to be noted—

The official entrusted with the work of cancellation and first punching of court-fee labels and impressed stamps shall legibly record on the documents, below the stamps, the aggregate value and number of the stamps used to denote each separate fee.

When two or more impressed stamps are used, the official concerned shall record the aggregate value and number of stamps on the first sheet and on the other sheets he shall make a note that it forms part of that particular documents.

17. First punching of labels on copies etc—

The Court or office issuing copies, certificates or other similar documents liable to stamp duty shall, before issue, cancel the labels affixed to them by punching out a portion of the label in such a manner that the value expressed therein is not removed.

18. Destruction of pieces punched out—

The portion of the stamp removed by the punching prescribed in these rules shall be burnt or otherwise destroyed by the officer charged with the duty of punching it out.

19. Forgery of stamps to be reported to Government—

The Presiding Officer of every Civil Court shall report immediately to the State Government, through the Inspector General of Stamps and Registration Rajasthan, any instance of forgery or fraudulent use of any description of stamps, whether general, Judicial or Postal coming to his notice. Such report shall be accompanied by full particulars as to the nature of the forgery or fraud perpetrated, and, if possible by specimens.

REFUND

20. Authority to refund Court-fee and process-fee—

The Court may Order refund of Court Fees under sections 61, 62 and 63 of the Rajasthan Court Fees and Suits Valuation Act, 1961 and rules made there under and refund of Process Fees may also be ordered as per provisions of these rules.

- 21. Refund of Court-fees on Order of demand—**
When a suit is remanded on appeal by an order under Rule 23 or 23-A Order XLI, of the Code the refund certificate shall not be granted by the appellate Court authorizing the appellant to receive back the whole or any part of the fee paid on the memorandum of appeal until the order of remand has become final, either by being affirmed in appeal or by the expiration of the time for filing of a second appeal.
- 22. Order for refund—**
An order for refund of court-fees or process-fees shall be made on an application bearing an office report or on an office report. The Presiding Officer shall with his own hand note in figures and words the amount to be refunded; and the Judge shall refer to such order before signing the certificate for refund.
- 23. Fee on delayed application in outlying courts—**
When an application for refund of court-fees is made and it is found necessary in an outlying court to call for the record of the case from the record room, the applicant will be required to pay a fee of Re. 1 if the application for refund is made beyond three weeks of the decision of the case.
- 24. Certificate of refund—**
The refund shall be made by a certificate for refund in the prescribed form (**F.132**) granted by the court to the person entitled to such refund, authorising him to receive from the Collector the amount therein specified.
- 25. Note of refund Certificate—**
- (1) When a refund certificate has been signed by the Presiding Officer, the Clerk concerned, shall record in red ink on the document bearing the stamps in respect of which the refund has been ordered; a certificate indicating that refund certificate number has been issued on..... (give date) for rupees.....(give figures and words) in respect of the stamps pasted above.
 - (2) The issue of the certificate shall also be noted against the original entry of the receipt of Court-fee in the Register of Court-fees.
- 26. Parts of refund certificate and their disposal—**
- (1) Part I of Form (**F.132**) shall be retained in the Court and Parts II and III shall be made over to the persons to whom the refund or repayments to be made for presentation to the Collector or at the Treasury or Sub-Treasury.
Such presentation shall be made within 15 days from the date of the certificate and the certificate shall not remain in force for more than 15 days.
On the refund or repayment being made at the Treasury or Sub-Treasury the Officer-in-charge shall fill up Part III and return it to the court which granted the certificate retaining Part II as his voucher for the refund or repayment.
 - (2) On receipt of Part III, such officer, as the Presiding Officer may appoint in this behalf, shall—
 - (1) paste Part III to Part I, noting on the former the date of its receipt from the Treasury or Sub-Treasury;

- (2) certify below the order of the Presiding Officer directing the refund or payment that the refund or repayment has been made;
- (3) file the document, on which the refund or payment was ordered, with the record, unless it has already been so filed;
- (4) record in red ink a certificate in the following form on the document bearing the stamp or stamps in respect of which the refund or payment has been made and obtain the signature of the Presiding Officer thereto;

"Certified that the sum of has been refunded (or paid as the case may be) under certificate No dated, and

- (5) if the refund or payment was of a process-fee, note the same in columns 27-29 of the registers of court-fees and process-fees against the original entry of the fee, and record on part III of the certificate for refund, the fact of such note having been made.

ORDER 30

Amins

1. Qualification for appointment as Amin—

Before appointing any person to be an Amin, the District Judge shall satisfy himself that the candidate has a competent knowledge of —

- (1) Hindi & English.
- (2) Arithmetic & Computer.
- (3) Mensuration.
- (4) Elementary land-surveying and mapping including mapping with electronic/ laser devices.
- (5) Order XXI and XXVI of the Code of Civil Procedure.
- (6) Rules relating to the work and duties of Amins.

2. Instruments for Amins work—

The District Judge shall, from time to time as funds allow, purchase the instruments given in the following list:—

- (1) Plane Table.
- (2) Box of drawing instruments.
- (3) Measuring Chain.
- (4) Measuring Rod.
- (5) Brass Sight.
- (6) Brass Scale.
- (7) Measuring Taps.
- (8) Mapping pens, boxes of colours, tracing cloth, etc.

The District Judge shall inspect and verify the stock of the above instruments in his annual inspection.

3. Utilization of service of the Amin by other courts—

Subject to the orders of the District Judge, the services of the Amin on the establishment of the District Court should be utilized as far as practicable by the other courts located at headquarters of the District Judge.

4. A member of the ministerial staff to work as Amin—

Where the services of the Amin are not available, the services of any other member of the ministerial staff may be utilized for the purpose by the Presiding Officer of the court.

5. No additional remuneration for service as Amin—

The Amin on the regular establishment or any other member of the regular establishment shall not be entitled to any additional remuneration for his services except reasonable travelling allowance.

6. Appointment of a special Amin—

Where the services of an Amin on the regular establishment are not available, and where the services of any other member of the ministerial staff cannot be utilized for the purpose without detriment to normal office working, the Court may appoint a special Amin in the case.

7. Approved list of Amin—

- (1) Special Amins shall be appointed out of an approved list of Amins maintained in each court.
- (2) Where more than one civil court is located at the same station, there shall be a common list for all such courts.

- (3) Admission of persons to the approved list of Amins shall be made with the sanction of the District Judge, by the Presiding Officers of the Courts.
- 8. Persons admitted to the list of approved Amins to be duly qualified—**
Care shall be taken to see that persons admitted to the list of approved Amins are sufficiently educated and qualified for the work required of them.
- 9. Remuneration of a special Amin—**
The remuneration to be paid to a special Amin shall be determined by the court.
The remuneration should not ordinarily exceed 1000/- rupees per day for the period actually spent in the work done (including the period spent on travelling) in addition to reasonable travelling allowance, where necessary, at the rate permissible for Government servants of the corresponding class.
- 10. Remuneration to special Amin to be deposited—**
The remuneration payable to a special Amin shall be deposited in cash by the party at whose instance the sale or attachment (for conducting or affecting which the Amin is appointed) is ordered.
- 11. Circles and beats of Amins—**
(1) Where there are several persons on the approved list of Amins attached to any court or group of courts, the District Judge shall distribute work of every Amin so as to ensure even distribution of work.
(2) The District Judge shall appoint senior most Judicial Officer to be Incharge of the work of the Amins provided that where an Amin works in the jurisdiction of an outlying court, the senior most Presiding Officer of such Court shall be Incharge of the work of such Amin.
- 12. Amin to know rules about pounds—**
Every Amin shall acquaint himself with the rules about cattle pounds.
- 13. Amin to work personally—**
Amins shall perform their duties in person and not by deputy.
- 14. Work for Amins—**
Civil Court Amins besides being employed to conduct sales, may be employed on any of the following duties:—
(1) In making attachment under an order of the Court.
(2) In making delivery of possession of property under an order of the court.
- 15. Programme of Amin—**
When an Amin proceeds on tour, he shall make such arrangements as will ensure that orders issued by the Court shall reach him without delay. The arrangement so made shall, on each departure of the Amin be notified by him in writing to the courts whose order he executes and also to the officer-in-charge of his work.
- 16. Information by Amin to decree holder—**
An Amin shall inform the decree-holder or his pleader by registered post or otherwise, within sufficient time of the date on which he proposes to be at certain spot to make an attachment or deliver

property, so as to enable the party concerned or his representative to attend on that date.

17. Instruction for Measurement and Mapping—

Amins shall be guided by the following instructions in making field and land Measurements in local inquiries:—

- (1) All measurements shall be made with chain and compass and the chain shall be 20 meters in length.
- (2) The work shall be plotted to scale and the scale to be used shall be 1 centimeter to 40 centimeters and 25 centimeters = 1 kilometer, unless otherwise ordered by the Court.
- (3) The starting point and every bearing and measurement taken shall be recorded in field-book as the measurement proceeds. The field-book shall be submitted with the map prepared and therefrom, and in it any prominent land marks adjacent to or on the line of measurement shall be noticed.
- (4) All water, running or standing, shall be indicated in blue; land or building in dispute shall be shaded red; and all writing on the map shall be so made as to be read when the map is held with the north side upper most.
- (5) Wherever it is possible such work can be carried out with the help of Electronic/ laser Device. If such device is not available, it can be hired at the expenses of party making such request.

18. Procedure for Police help to Amin—

When Amin has to make an attachment under an order of the Court and he apprehends that resistance will be offered by the judgment-debtor, he shall make a request to the Court for requisite police help and shall mention full reasons for fearing a breach of peace. On request being made that Court shall write to the Superintendent of the Police for providing necessary Police assistance.

In cases of emergency, when the above procedure is not possible, application shall be made to the Officer-in-charge of the police station concerned.

19. Scrutiny of the Amin's statement work—

The Officer-in-charge shall satisfy himself that there has been no avoidable delay in executing a process and that Amin in his tour has taken the shortest route.

Officer-in-charge shall report to the District Judge if he finds any irregularity or unnecessary delay in execution of process by any Amin.

20. Payments to Amins for sale of movable property—

Every Amin shall give receipts for all such cash payments or all movable property that may come into his custody by virtue of his office to the person from whom he receives the same. Counterfoil receipt-book (**F.133**) shall be supplied.

21. Payments to Amins for sale of immovable property—

When the sale is of immovable property, the Amin shall receive in cash the twenty-five per cent deposit required by order XXI Rule 84 of the Code of Civil Procedure, for the rest of the purchase-money, he shall ordinarily give a payment order (**F.134**), entering therein as the date of payment, the latest safe date, having regard to the terms of Order XXI Rule 85 of the Code of Civil Procedure. Counterfoil books of payment orders will be supplied for this purpose. If the amount of the purchase-money be less than Rs. 5000/- the Amin may at his discretion receive payment of it on full at the time of sale.

22. Auction purchaser to pay money to the receiving Officer of the Court—

The auction-purchaser to whom such payment order has been given shall pay the money noted therein to the Receiving Officer of the Court which made the order of sale, in the manner prescribed in these rules and shall with his tender file the payment order delivered to him by the Amin. Such payment order shall, along with the tender be filed with the record of the case to which it relates.

23. Amin's Cash Register—

With the exception hereinafter noted, all money received by an Amin shall immediately on receipt be entered by him in his Cash Register (**Register No.257**) and, shall, with as little delay as possible, be paid by him into the Treasury/ bank, or court, as the case may be. The following Petty items which pass through the Amins' hands but are not required to be paid into the Treasury/ Bank, shall not be shown in the Amin's Cash Register, but in columns 13, 14 and 15 of the Register of orders (**Register No.254**) and in columns 14 to 17 of the proceedings Register (**Register No.256**).

- (1) Charges for maintenance of live-stock.
- (2) Cost of preparing attached property for sale.
- (3) Wages of labour paid through the Amin.
- (4) Wages of Chainman.

The entries in column 13 of Register No. 59 shall be made when the money is remitted to the Amin, and those in columns 14 and 15 when the Amin's report is received. The entries in columns 12 and 13 of Register No. 61 shall be made by the Amin at the same time as those in columns 1 to 9 and those in columns 14 and 15 when entries are made in column 11.

24. Repayment of deposit by Amin—

Money deposited by an Amin under these rules shall remain at the Treasury or Sub-Treasury in which it was deposited unless and until a repayment order is made under these rules upon an application for repayment regularly made and passed. If the money has been deposited at a sub-treasury the repayment order shall be made payable at that Sub-Treasury or District Treasury, as the case may be.

PART-III CRIMINAL

ORDER 31 PROCESSES

1. Contents of process or order-

- (a) In every process or order issued or made by the Presiding Officer of a Court, the name and designation issuing or making it, together with the name of the district and of the Court, shall be clearly and legibly set out or printed. Every officer signing a process or order shall sign his name legibly and in full. The practice of signing initials only or affixing stamp is strictly forbidden.
- (b) Every person for whom a process is issued shall be described therein in such a manner as will correctly identify him. His full and correct name, address, parentage and such further description as will serve to identify him must be mentioned. In case of service and execution of a process to be effected in large towns and cities, the name of the street, ward number of the Municipality, PIN Code and the number of the house, if known, should be given.

Illustration

Name of the Court
Place/ District/ PIN Code
Name of Presiding Officer :
Designation of the Presiding Officer

Name of the Person to whom process issued: _____
Father's/ Mother's/ Husband's Name : _____
Phone/ email ID, if any : _____
Age : _____
Caste : _____
Address
House No. : _____
Ward No. : _____
Street/ Locality : _____
Village/ Town/ City : _____
Post Office : _____
PIN Code : _____
District : _____
State : _____

Signature in Full with Date
Name of the Presiding Officer
Designation,
or
By Order
Signature in Full with Date
Designation of Authorised Signatory

2. Signing summons to witnesses-

In all Criminal Courts, summons issued to witness may be ordinarily signed by the Munsarim or the Reader, as the case may be, with the words 'By order of the Court', prefixed to his signature. However, the Presiding Officer of the Court may by an order in writing empower any official, not below the rank of an Upper Division Clerk to sign the summons and notices issued to witnesses as referred to above.

3. Language of the process-

Every process requiring the appearance or attendance of a person, shall be in diglot (English and Hindi) written in Devnagari script unless required to be in any other language under any law for the time being in force, or if the Court so directs, in any other language. In every such process requiring appearance or attendance of a person the day, the month, year and the hour fixed for such appearance or attendance shall be stated in word as well as figures. It shall also mention the place of appearance or attendance clearly.

4. Processes to Court of which language is other than Hindi-

When the process or summons are issued in a language other than the official language of the receiving court, such process or summons should be accompanied by English version. Similarly, the report from the receiving court to the originating court regarding the execution of the process or summons should be accompanied by an authorized English translation of the report.

5. Process to soldiers, sailors and airmen –

Process to officer, soldier, sailor or airman, shall be sent for service to his Commanding Officer, together with a copy to be retained by the person concerned. In such cases, sufficient time shall be given to make arrangements for relieving the concerned person.

6. Process to Government servants-

When a Government servant other than the aforesaid personnel is required to attend at a Court beyond the limit of the district or area in which he/ she is serving, the court issuing the process or summons, unless the case is of extreme urgency, shall allow sufficient time for arrangements to be made for the performance of the duties of such person during his/ her absence.

7. Notice in case of arrest of Government servant-

- (a) When circumstances permit notice of the intended arrest of a Government servant shall be given to the Head of the Office in which the Government servant is working, and in case of a Government servant working in the secretariate, to the Chief/ Principal Secretary to the Government so as to allow proper arrangements to be made to have such person relieved.
- (b) Notice of the intended arrest of person working in any Government Department but is in the service of a contractor/ agency, shall be given in a similar manner when circumstances permit, to the contractor/ agency, as the case may be.
- (c) No judicial officer shall be arrested or taken in custody without the prior permission in writing of the High Court.

8. Process against Member of the Parliament and State Legislature-

No summons or process against a Member of Parliament or a Member of State Legislature shall be sent to the Presiding Officer of the House for service or execution. No such summons or other process shall be served on any member within the precincts of the House of which he is a Member. Summons addressed to a Member of a Parliament or a State Legislature should be sent directly to the Member concerned at his residence or at some other place.

9. Intimation of arrest, detention, conviction and release of a Member of Parliament and Member of State Legislature-

- (a) When a Member of the House of the People is arrested on a criminal charge or for a criminal offence or is sentenced to imprisonment by a Court, the Judge or Magistrate as the case may be, shall immediately intimate such fact to the Speaker indicating the reasons for the arrest, detention or conviction, as the case may be as also the place of detention or imprisonment of the Member in the appropriate prescribed Form (**F.135**).
- (b) When a Member is arrested and after conviction released on bail pending an appeal or otherwise such fact shall also be intimated to the Speaker by the concerned court in the appropriate prescribed form (**F.135**).
- (c) The provisions contained in the above sub-rules will apply *mutatis mutandis* to Member of the Council of States and of a State Legislature.

10. Process fees-

The fees hereinafter mentioned shall be chargeable for serving and executing processes issued by Criminal Courts in the case of offences other than offences for which police officers may arrest without a warrant:-

- (a) Warrant of arrest:- In respect of each person to be arrested
Rs. 10/-³⁹
- (b) Summons - In respect of each person
Rs. 5/-⁴⁰
- (c) Proclamation for absconding person under section 82 of the Code
Rs. 10/-⁴¹
- (d) Warrant of attachment:-
(i) in respect of the warrant
Rs. 5/-⁴²
(ii) Where it is necessary to appoint Officer-In-charge of property attached, in respect of each officer so employed per day, not more than
Rs. 25/-⁴³
- (e) In cases where an application is made by a complainant for the recovery of compensation allowed under Section 357(3) of Code or for the recovery of costs awarded under section 359 of the Code or where a person applies for the recovery of compensation awarded to him under section 250 of the Code:-
In respect of the warrant for the levy or the fees, fine or compensation
Rs. 10/-⁴⁴

Provided that no fee shall be chargeable for any process issued upon the complaint or application of any public officer as defined under section 2(17) of the Code of Civil Procedure, 1908 or of any railway servant as defined in section 3(7) of the Indian Railways Act, 1890 or of the officer or servant of any local authority, when acting as such public officer, railway servant or officer or servant or a local authority, as the case may be.

Provided further, the Presiding Officer of the Court may remit in whole or in part, a fee chargeable under this rule whenever he is satisfied that the person applying for the issue of the process has not the means of paying the same.

³⁹ Substituted vide Notification No. 01/S.R.O./2020 dt. 26.02.2020 Pub. in Raj.Gaz.Ext.Pt-I (b)dt.27.02.2020
⁴⁰ Substituted vide Notification No. 01/S.R.O./2020 dt. 26.02.2020 Pub. in Raj.Gaz.Ext.Pt-I (b)dt.27.02.2020
⁴¹ Substituted vide Notification No. 01/S.R.O./2020 dt. 26.02.2020 Pub. in Raj.Gaz.Ext.Pt-I (b)dt.27.02.2020
⁴² Substituted vide Notification No. 01/S.R.O./2020 dt. 26.02.2020 Pub. in Raj.Gaz.Ext.Pt-I (b)dt.27.02.2020
⁴³ Substituted vide Notification No. 01/S.R.O./2020 dt. 26.02.2020 Pub. in Raj.Gaz.Ext.Pt-I (b)dt.27.02.2020
⁴⁴ Substituted vide Notification No. 01/S.R.O./2020 dt. 26.02.2020 Pub. in Raj.Gaz.Ext.Pt-I (b)dt.27.02.2020

11. Process fee to be prepaid-

The process shall not be drawn up for execution of service unless the fee chargeable under rule 10 has been paid or remitted.

The fee shall be paid in court fee stamps, which shall be affixed either to the application by which the court is moved to issue the process in addition to the court fee chargeable upon the application itself, or if no such application is filed, to a separate sheet of paper giving particulars of the case and also reference to the order by which the Court directs the issue of the process.

The fee prescribed in rule 10(d)(ii) shall be paid in cash and shall be disbursed by the Court to meet the expenses incurred.

12. Service of summons on witnesses by post-

⁴⁵(a) In addition to the mode and method provided in Chapter VI of the Code of Criminal Procedure 1908, it shall be lawful for a court to serve summons by fax, email, SMS, speed post or registered post with A.D. or through any other electronic mode including mobile application. The service so made shall be deemed to be sufficient service of process on the concerned.

(b) Wherever the process as aforesaid is to be issued upon a request made by the party concerned by speed post or registered post with A.D., the court will require the concerned to submit full and correct postal address and envelope containing requisite postage stamps, etc. to meet with reasonable expenses towards service of process.

13. Production of documents in the custody of Parliament or State Assembly-

In all cases where a document in the custody of Lok Sabha/ Rajya Sabha/ Legislative Assembly/ Legislative Council is required to be produced before a Court or an officer of the Secretariat of the House is required to appear before the Court for the purpose of giving evidence, instead of sending of summons in the ordinary form, letter of request in the prescribed Form **(F.136)** shall be sent to appropriate authority.

14. Summoning of Magistrate-

Ordinarily the Magistrates who had recorded the statements and confessions under section 164 or section 281 of the Code or had prepared an inventory of articles under any law time being in force shall not be summoned by the Presiding Officers to give evidence except where the Presiding Officer is of the opinion that their statements are necessary to be recorded in view of Section 463 of the Code.

15. Issue of warrants to be executed outside the local jurisdiction-

While issuing warrant to be executed outside the local jurisdiction of the Court, the Presiding Officer shall see that provisions of section 78(2) of the Code have been complied with. Necessary documents for enabling the receiving Court or the Police Officer for taking action under section 81 of the Code must always be sent along with a warrant.

16. Summoning of officers of the Indian Security Press (Stamp Press) the Currency Notes Press and the Central Stamps Stores-

The Presiding Officers may issue as far as possible, commissions under Section 284 of the Code for the examination of officers of Indian Security Press (Stamp Press), Currency Notes Press and the Central Stamps Stores, Nasik Road whenever their evidence is required in cases arising out of forged currency notes, stamps (Postal, Revenue, Judicial etc.) petrol coupons, excise banderols and the like which are manufactured in the Indian Security Press and the Currency Notes Press, as their attendance in person involves considerable inconvenience to them and dislocation in their normal work.

⁴⁶ORDER 31 A

INVESTIGATION

1. Body Sketch to accompany Medico-Legal Certificate, Post Mortem Report and inquest report :

Every Medico Legal Certificate, Post Mortem Report shall contain a printed format of the human body on its reverse and injuries, if any, shall be indicated on such sketch.

Explanation: The printed format of the human body shall contain both a frontal and rear view of the human body, as provided in Appendix-M.

2. Photographs and video graphs of Post Mortem in Certain cases:

- i. In case of death of a person in police action [under Section 46 Criminal Procedure Code, 1973 ("Cr.P.C.") or Section 129 to 131 Cr.P.C.] or death while in police custody, the magistrate or the Investigating Officer as the case may be, shall inform the hospital or doctor in charge to arrange for photographs or videography for conducting the post-mortem examination of the deceased. The photographs of the deceased shall also be arranged to be taken in all cases.
- ii. Such photographs and video graphs shall be taken either by arranging a police photographer or a nominated photographer of the State Government, and where neither of the above are available, an independent or private photographer shall be engaged.
- iii. Such photographs or video graphs shall be seized under a *panchnama* or seizure memo and all steps taken to ensure proper proof of such photographs/ video graphs during Trial.
- iv. The Investigating Officer shall ensure that such photographs and videographs, if taken electronically, are seized under a *panchnama* or seizure memo and steps are taken to preserve the original, and ensure that certificate under Section 65B Indian Evidence Act, 1872 is obtained and taken to be proved during trial.
- v. The video or photographs shall be stored on a separate memory card, accompanied by a duly certified certificate under Section 65B Indian Evidence Act, 1872.
- vi. Where post-mortems are recorded in electronic form, the file containing the post-mortem proceedings, duly certified, should be placed with the memory card as an attachment unless individual memory cards are not capable of being produced before Court.

3. Scene Mahazar/Spot Panchanma

46. Inserted vide GSR No. 422, Notification No. 03/S.R.O./2020 dt. 15.12.2021 w.e.f. (Pub. in Raj. Gaz.on dt.04.03.2022)

- i. A site plan of the place of occurrence of an accident shall be appended by the Investigating Officer to the scene *mahazar* or spot *panchnama*.
- ii. The site plan shall be prepared by the Investigating Officer by hand and shall disclose:
 - (a) the place of occurrence,
 - (b) the place where the body (or bodies) was/were found,
 - (c) the place material exhibits and/or weapons,
 - (d) blood stains and/or body fluids had fallen,
 - (e) the place where bullet shells, if any, were found or have caused impact,
 - (f) the source of light, if any and
 - (g) adjoining natural and man-made structures or features such as walls, pits, fences, trees/bushes, if any and
 - (h) elevation of structures and their location
- iii. The preparation of this sketch by the Investigating Officer shall be followed by a scaled site plan prepared by police draftsman, if available, or such other authorised or nominated draftsman by the State Government, who shall prepare the scaled site plan after visiting the spot.
- iv. The relevant details in the *mahazar* or *panchnama* shall be marked and correlated in the said site plan.

ORDER 32

PREPARATION OF RECORDS

1. Presentation and Registration.-

- (a) All pleadings, applications, petitions and any other relevant paper of whatsoever nature filed in the course of judicial proceedings shall be filed before such official appointed by the court or by the District Judge to receive such presentation.
- (b) No such presentation shall be made across the Dais during court hours.
Provided, that such presentation may be made in the court on the ground, of limitation, or other urgent reason, if any.
- (c) Such presentation may also be made in the court by a prisoner, or other person in duress or under restraint in court, or its officer.
- (d) The Presiding Officer when accepting such presentation during court hours or after court hours will make a note on such papers, the time of presentation.
- (e) All pleadings, applications, petitions and any other relevant paper of whatsoever nature except those presented by a prisoner or other person in duress or under restraint in court or its officer and also powers of attorney, filed in the course of judicial proceedings, shall be fairly and legibly printed in double space on stout durable papers of foolscap size in Hindi / English; duly paginated, indexed and stitched together in paper book form;
Both sides of the paper shall be used, and a quarter margin, together with at-least one & half inch of space at the top and bottom of each sheet, shall be left.

- (f) If at the time of filing concerned person is in jail, any pleading, application and petition of whatsoever nature may be presented either to the Officer-in-charge of prison by a prisoner himself, or before such official appointed by the Court or by the District Judge to receive such presentation by a pleader authorized by him, a memo of appearance or vakalatnama, if filed, shall be signed by the prisoner and forwarded by the Officer-in-charge of prison under his signature after due attestation.
- (g) If such pleadings, applications, petitions and any other relevant paper of whatsoever nature is presented before Superintendent of the Jail, he shall send such papers to the Court concerned.
- (h) If it appears to the court that the prisoner wishes to be represented by pleader, the court shall not proceed with until seven days have elapsed, since the date of its receipt, unless pleader appears earlier. If it appears to the court that the prisoner has no sufficient means to engage a pleader, the court shall assign a pleader to him/ her at the expense of the State with a simultaneous request to concerned legal service authority.
- (i) At the time of presentation, every person shall also file an email ID and Mobile Number where service can be effected. Such person shall also file an undertaking stating therein that any service transmitted electronically on such email ID or mobile number, shall be deemed to be sufficient service on such party concerned.

Provided, that a victim of sexual harassment shall file such document in a sealed cover.

- (j) At the time of presentation, the following entries shall be made by the official concerned:-
 - (i) date and time of presentation,
 - (ii) name of presenter,
 - (iii) classification of record,
 - (iv) court fee paid.

2. **Numbering of Cases.-**

A serial number shall be assigned to each case-

- (a) in the Court of a Magistrate taking cognizance of an offence as soon as cognizance is taken, but if the case is at once made over under Section 192 of the Code, it shall not be numbered as a case;
- (b) in the Court of a Magistrate on receiving a case under section 192 of the Code or by transfer or by submission under Section 322 of the Code, as soon as the case is received;
- (c) in a Court of Sessions receiving a case made over under section 194 of the Code for trial, as soon as the case is received;
- (d) in a Court of Sessions receiving a case on commitment or on reference under section 122 of the Code, as soon as notice of the commitment or the record in a case of reference is received;
- (e) if a case is transferred or committed to another court, the case number of the court from which the case has been received by transfer shall be shown in Red ink;

- (f) a separate series of numbers shall run in each Court for cases entered in the Register of Miscellaneous Criminal Cases (**Register No.260**). Every such number in the series shall be followed by the letters "Misc";
- (g) a separate series of numbers shall run in each Court before which the proceedings are laid under section 122(2) of the Code or to which case is submitted under section 322 or section 323 or section 325 of the Code. Every number in this series shall be followed by the word 'REFERRED';
- (h) a separate serial number shall be given to cases tried summarily under section 260 of the Code which shall be followed by the letter 'S'.
- (i) a separate file shall be prepared for each "Panchayatnama" i.e. inquest report under section 174 of the Code. It shall be entered individually in the register of inquest report. On the close of each month, the case in which the action is complete should be consigned to the record room in a bundle prepared every month and a note be made in the remarks column against each inquest report thus-
Filed in the monthly bundle for the month of

3. Order-sheet-

Upon institution of a case, an order-sheet in the prescribed Form (**F.123**) shall be opened. Subsequent thereto order-sheet shall be used.

Every order-sheet shall bear at its top the number and the title of the case and shall contain –

- (a) every routine order passed by the Court in the case;
- (b) a note of every other order passed including every order regarding the production of a document before the Court;
- (c) a note of the date of each hearing attendance of parties by name, the names of the pleaders appearing and the proceedings on that date. An order, not being an order for adjournment or postponement, the reasons for which are required to be recorded at length shall not be written on the order-sheet but only note of the order and of the date on which it was made shall be entered on it. Every entry upon the order-sheet shall be made at the earliest opportunity and shall be signed by the Presiding Officer;
- (d) all financial transactions relating to the case.

4. General Index-

Upon institution of a case, a General Index in the prescribed Form (**F.137**) shall be opened. In it shall be entered a note of every paper or document along with the date of its presentation, in the order in which they were brought on record:-

- (a) When a paper is removed from the record the fact of such removal shall at once be noted in the General Index and the appropriate index of exhibit against the entry of that paper.
- (b) Upon institution of a case, an index of prosecution exhibits and index of defence exhibits and an index of material exhibits in the prescribed Form (**F.138**) shall be prepared. Every document or material exhibit such as a weapon or any other thing, which is admitted in evidence as an exhibit shall be entered with its exhibit number in the appropriate index of exhibits. When a document or article admitted as an exhibit is subsequently rejected or returned or otherwise ceases to be an exhibit, a note of the fact shall at once be made in the

appropriate index of exhibits and also in the General Index against the entry of the document and article.

- (c) There shall be one file of exhibits and this shall remain intact. It shall be opened in the Magisterial Court and shall continue as a single exhibit file even in the Court of Sessions. If the Sessions Court adds any exhibits, which was not before the Magisterial Court, it will place the exhibit in the exhibit file giving after the last serial number or letter giving to the exhibit in the Magisterial Court.

5. Contents of record-

The record shall include every paper in the case from the information on which cognizance was first taken up to and including the warrant returned under section 430 of the Code.

6. Impounded documents-

When a document or material exhibit produced before a Court is impounded, a note that it has been so impounded shall forthwith be made upon it or attached to it and shall be signed by the Presiding Officer. Such a note shall also be made in the General Index of the file after entering the document in it. Such impounded document or other thing shall not be allowed to pass out of the custody of the Court, save by written order of the Court.

7. Marking of exhibits-

- (a) Upon every document produced and admitted in evidence and proved before a Court shall be clearly marked the number it bears in the General Index of the case and the number and title of the case.
- (b) The Court shall mark the documents admitted in evidence on behalf of the prosecution with the letter 'P' and a numeral in the order in which they are admitted, thus:-
Ex. P.1, Ex.P.2, and Ex. P.3, etc. and the documents admitted on behalf of the defence with the letter 'D' and numeral thus:-
Ex.D.1, Ex. D.2, and Ex.D.3, etc.

⁴⁷The Court exhibits shall be marked as Exhibits/C-1, C-2, etc. in seriatim.

To easily locate the witness through whom the document was first introduced in evidence, the exhibit number shall further show the witness number of such witness after the Exhibit number. If an exhibit is marked without proper proof, the same shall be indicated by showing in brackets (subject to proof).

Explanation: If Prosecution witness no.1 (PW1) introduces a document in evidence, that document shall be marked as Exhibit P-1/PW-1. If proper proof is not offered for that document at the time when it is marked, it shall be marked as Exhibit P-1/PW-1 (subject to proof). The Second document introduced by PW1 will be Exhibit P-2/PW1."

- (c) In the same manner every material exhibit admitted in evidence on behalf of prosecution shall be marked with numerals in serial order followed by the word 'ART' as Ex. Art.1, Ex. Art.2, Ex. Art.3 and the material exhibit admitted on

47. Inserted vide GSR No. 422, Notification No. 03/S.R.O./2020 dt. 15.12.2021 w.e.f. (Pub. Date in Raj.Gaz. i.e on dt.04.03.2022)

behalf of the defence shall be marked with the letter 'A' with numerals in serial orders viz. Ex. Art.A-1, Ex. Art.A-2 and Ex. Art. A-3, etc. ⁴⁸"The material objects shall be marked in seriatim as MO-1, MO-2 etc."

- (d) All exhibit marks on the documents and material exhibits shall be recorded in red ink and in block letters and shall be initialed with designation and dated by the Presiding Officer of Court.
- (e) No document or material exhibit, which has been admitted in evidence and exhibited shall be returned or destroyed until the period for appeal or revision has expired or until the appeal or revision has been disposed of.
- (f) Documents and material exhibits, which have not been admitted in evidence should not be made part of the record and should be returned to the party by whom they have been produced with an endorsement mentioning the number and title of the case, name of the person producing the document and by the word 'returned' endorsed on it, which shall be signed or initialed by the Presiding Officer.

8. Duties of Officer-in-charge-

The officer, for the time being in charge of the record shall-

- (a) enter on the General Index every paper as it is filed with the record;
- (b) punch out the figure-head of each court fee stamp upon such paper, and record below the stamps the aggregate number and value of the stamps used to denote each separate fee;
- (c) certify in the General Index state of any exhibit filed noticing any erasure and interlineation therein together with its condition whether it is torn or pasted on a paper;
- (d) take the orders of the Court, if necessary, as to the correct entry to be made under the above clause.

9. Division of Records-

Every papers as it is brought on the record shall be marked as belonging to either Part A or Part B, or Part C or Part D.

Each part shall include the following paper:-

Part A	Part B	Part C	Part D
1.Record of statements or confessions (u/s 164 of the Code)- (i) plea u/s. 228,299, 240(2) and 241 of the Code, and (ii) Examination under Sections 313 and 281 of the Code of the accused and written statement of the accused, if any. 2.Proceeding on which cognizance was first taken, Police Report, etc.(section 190 of	(a)Index of Papers (b) All applications of whatsoever nature except application for adjournment and exemption from personal appearance.	(a) Index of Papers (b)Exhibited documents admitted in evidence	(a) Index of Papers (b)All other papers not included in Part A, Part B and Part C.

48. Inserted vide GSR No. 422, Notification No. 03/S.R.O./2020 dt. 15.12.2021 w.e.f. (Pub. Date in Raj.Gaz. i.e on dt.04.03.2022)

<p>the Code) 3. Charge and altered charge, if any. 4. Order consenting to the withdrawal of any charge (sections 224 and 321 of the Code). 5. Record in summary trial. 6. Record of proceedings under section 236 of Code. 7. Record of composition of an offence (u/s 320 of the Code) 8. Judgment and sentence. 9. Copies of orders of High Court regarding sentence of death (Section 371 of the Code). 10. Warrant or other paper returned on execution of sentence. 11. Copy of order commuting a sentence or suspending the execution thereof or remitting punishment. 12. Petition of appeal or application for revision. 13. Copy of judgment or order in appeal or revision. 14. Certificate of judgment or order in appeal or revision. 15. Proof of previous conviction 16. Order for disposal of property (Chapter XXXIV of the Code) 17. Order of Transfer 18. Order-sheets 19. General Index 20. Treasury receipt. 21. Bonds under section 106, 107, 108, 109, 110, 360, 379 and 437A of the Code and bonds under Section 4 of the Probation of Offenders Act. 22. Papers relating to the identification of</p>	<p>(c) Record of evidence (d) Vakalatnama (e) Deposition of medical/ expert witness (f) Report of chemical Examiner and other reports mentioned in Section 292 and 293 of the Code.</p>		
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<p>the accused person in the jail or elsewhere.</p> <p>23. Papers relating to the identification of stolen property.</p> <p>24. Site plan or map of the locality placed on the file of the case and site Inspection of the locality drawn by the Presiding Officer of Court u/s 310 of the Code.</p> <p>25.The statement prepared for the purpose of section 428 of the Code.</p> <p>26. Memorandum of arguments u/s 314(1) of the Code.</p> <p>27. Consent or sanction to the initiation of proceedings under sections 196 and 197 of the Code or under any others law for the time being in force.</p> <p>28.Deposition(s) of witnesses, who are absent at the trial, which have been admitted in evidence under section 33 of the Evidence Act.</p>			
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In any case in which a proceeding belonging to Part A, or Part B, or Part C or Part D are recorded on one and the same paper, such paper shall be placed in Part A.

The arrangement of papers in the record shall be in the order of the serial numbers of the papers in the General Index.

10. Return of exhibits-

A notice shall be fixed up in a conspicuous part of every court house giving warning that if an exhibit which has been filed in a case is left in a Court, it will be kept there at the owner's risk. Before making an order for the return of an exhibit, the Court shall consider whether it is expedient to return it; if returned a copy should be required in its place, and if so, whether the copy should be prepared at the expense of the person to whom the exhibit is returned, or at the expense of the Government.

11. Record of Appeal or Revision-

A copy of judgment or order appealed against accompanying a petition of appeal, and a copy of any order, sentence, finding or other proceeding filed with an application for revision of such order, sentence, finding or other proceeding shall remain with the record of the appellate or revisional court and not be returned.

12. Title Page-

A cover or title page in the prescribed form ⁴⁹(F.137) shall be placed over the record of every case.

13. Use of documents exhibited in another record-

When a document in any record is made an exhibit in another record, civil or criminal, and is removed to that record, a certified copy of the document shall be retained in the record from which the document is removed and a note of the removal shall be made on the general index or order-sheet. After the decision of the appeal or after the expiry of the period of appeal or revision, if no such revision or appeal has been brought, the document shall be returned to the record of which it originally formed part, its place being taken by a certified copy (a requisition of record should be sent as per the provisions of Order 43 Rule 1 & 2).

14. Officer for checking and cancelling stamps-

(a) Each Magistrate or Sessions Judge shall under sub-section (2) of section 68 of the Rajasthan Court Fees and Suits Valuation Act, 1961(Act No. XXIII of 1961) appoint by an order in writing, an officer for the purpose of cancelling stamps. That officer who should ordinarily be the Reader for documents filed in the Court and the Senior Munsarim for the documents presented before him shall personally attend to and be personally responsible for the strict fulfilment of the duty of receiving document to be filed, examining the correctness and adequacy of stamps attached thereon and immediately cancelling such stamps as required by section 68(2) of the Court Fees and Suits Valuation Act, 1961.

Note -

(i) The Presiding Officer should see that punching is done immediately on presentation of the petition and other documents in Court.

(ii) A rubber stamp in the following form shall also be used;
Cancelled.

It should be applied across the adhesive stamps and upon the paper on either side of it but not in such a way as to obliterate the entries there on or to render the detection of forgeries more difficult.

(b) In all cases it should be carefully seen that the figure-heads of the court fee stamps are punched out, that the pieces are destroyed before the documents to which stamps are attached are filed or acted upon.

(c) Every Judicial Officer should inspect the work of his officers from time to time so as to ensure attention to their duty and to obviate any opportunity for fraud. A very efficient check could be kept on any attempt to defraud Government if each Presiding Officer examines daily some of the records he handles and if he also examines periodically bundles of records of cases dealt with by him, taken out at random from the shelves, in which they are placed.

49 . Substituted vide GSR No. 422, Notification No. 03/S.R.O./2020 dt. 15.12.2021 w.e.f. (Pub. Date in Raj.Gaz. i.e on dt.04.03.2022)

⁵⁰ORDER 32A

- 1. Supply of documents under Sections 173, 207 and 208 Cr.P.C.:** Every Accused shall be supplied with statements of witness recorded under Section 161 and 164 Cr.P.C. and a list of documents, material objects and exhibits seized during investigation and relied upon by the Investigating Officer (I.O.) in accordance with Sections 207 and 208, Cr.P.C.
Explanation: The list of statements, documents, material objects and exhibits shall specify statements, documents, material objects and exhibits that are not relied upon by the Investigating Officer.
- 2. Charge:-** The order framing charge shall be accompanied by a formal charge in Form 32, Schedule II, Cr.P.C. to be prepared personally by the Presiding Officer after complete and total application of mind.

ORDER 33

TRIALS

- 1. Procedure on commitment-**
When an order of commitment for trial has been made, the Magistrate shall at once report the fact to the Court to which the commitment is made by a letter in the prescribed Form **(F.140)**; and shall within eight days from making the said order, submit the entire record to the Court of Sessions and shall send malkhana articles, if any, within a fortnight thereof together with a calendar in the prescribed Form **(F.141)**
The entries in the calendar with regard to witnesses shall be full and accurate, so as to give the Court receiving a clear idea of the matters to which each witness will depose.
- 2. Examination of record of commitment in Sessions Court-**
The record of each case shall be carefully examined immediately on receipt, and the sessions clerk shall report whether it is complete and properly arranged and indexed, whether all malkhana articles have been received. The committing Magistrate shall be asked to have deficiencies, if any, made up, and the record may be returned to him for this purpose, if necessary.
- 3. Expeditious disposal of Sessions Cases-**
 - (a) Sessions cases should be disposed of with the greatest possible expedition. Sessions Judge should reserve particular number of days in a week for sessions work.
 - ⁵¹ (aa) Sessions cases may be given precedence over all other work and no other work should be taken up on sessions days until

50. Inserted vide GSR No. 422, Notification No. 03/S.R.O./2020 dt. 15.12.2021 w.e.f. (Pub. Date in Raj.Gaz. i.e on dt.04.03.2022)

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the sessions work for the day is completed. A Sessions case once posted should not be postponed unless that is unavoidable, and once the trial has begun, it should proceed continuously from day today till it is completed. If for any reason, a case has to be adjourned or postponed, intimation should be given forthwith to both sides and immediate steps be taken to stop the witnesses and secure their presence on the adjourned date.

- (b) Sessions trials should ordinarily be held in order in which commitments are made. The Presiding Officer may, however, exercise his discretion in the matter of giving priority to certain cases particularly cases involving capital sentence subsequently received or where the accused is in jail; and the court shall dedicate sufficient number of days in a week for trial of such cases while taking into account the case pendency etc.
- (c) Priority shall also be given in cases where, accused/ complainant is Senior Citizen/ Woman.
- (d) [Deleted]*.
- (e) The Sessions Judge shall take necessary steps to get the summons served on the witnesses in time and if necessary the Superintendent of Police of the District may be asked to make special efforts to secure the attendance of the witnesses.
- (f) A Sessions trial shall not be adjourned or postponed except in exceptional circumstances for reasons to be recorded in writing.
- (g) In case where the Sessions Judge decides to proceed under section 228(1)(b) of the Code, he shall after recording the plea of the accused, shall fix the date for the evidence of the prosecution and may, on the application of the prosecution, issue process forthwith for compelling the attendance of witnesses or the production of any document or other thing.
- (h) In every inquiry or trial the proceedings shall be continued from day-to-day until all the witnesses in attendance have been examined, unless the Court finds the adjournment of the same beyond the following day to be necessary for reasons to be recorded;

Provided that when the inquiry or trial relates to an offence under section 376, section 376A, section 376B, section 376C or section 376D of the Indian Penal Code, the inquiry or trial shall, as far as possible be completed within a period of two months from the date of filing of the charge sheet.

If the Court after taking cognizance of an offence, or commencement of trial, finds it necessary or advisable to postpone the commencement of, or adjourn, any inquiry or trial, it may, from time to time, for reasons to be recorded, postpone or adjourn the same on such terms as it thinks fit, for such time as it considers reasonable, and may by a warrant remand the accused if in custody.

Provided that no Magistrate shall remand an accused person to custody under this section for a term exceeding fifteen days at a time.

Provided further that when witnesses are in attendance no adjournment or postponement shall be granted, without

examining them, except for special reasons to be recorded in writing:

Provided also that no adjournment shall be granted for the purpose only of enabling the accused person to show cause against the sentence proposed to be imposed on him.

Provided also that -

- (i) no adjournment shall be granted at the request of a party, except where the circumstances are beyond the control of that party;
- (ii) the fact that the pleader of a party is engaged in another Court, shall not be a ground for adjournment;
- (iii) where a witness is present in Court but a party or his pleader is not present or the party or his pleader though present in Court, is not ready to examine or cross-examine the witness, the Court may, if thinks fit, record the statement of the witness and pass such orders as it thinks fit dispensing with the examination-in-chief or cross-examination of the witness, as the case may be.

Explanations

1. If sufficient evidence has been obtained to raise a suspicion that the accused may have committed an offence, and it appears likely that further evidence may be obtained by a remand, this is a reasonable cause for a remand.
2. The terms on which an adjournment or postponement may be granted in include, in appropriate cases, the payment of costs by the prosecution or the accused.

4. Expenses and allowances to witnesses-

- (a) The payment of reasonable expenses of complainants and witnesses attending Criminal Court for the purpose of any enquiry trial or other proceedings shall be regulated by the rules made by the Government under section 312 of the Code of Criminal Procedure, 1973 (2 of 1974) and published in the Rajasthan Gazette as amended up-to-date. **(Appendix-I)**
- (b) As far as possible, the aforesaid expenses and allowances shall be paid immediately after conclusion of the evidence. If need be, limit of the imprest should be got enhanced suitably. If expenses and allowances are not paid immediately after conclusion of the evidence, it should be either transferred to the bank account of the witness or through bankers' cheque.
- (c) Order for payment of such amount shall be made in prescribed Form **(F.142)**

5. Disposal of case property.-

At the conclusion of each trial, the court shall pass order of disposal of case property specifically.

6. Accused sentenced to death to be warned to appeal within 30 days-

A Sessions Judge, in a case in which a person is sentenced to death, shall record that he has informed him that, if he wishes to appeal, his appeal must be preferred within thirty days (of Art.115 of the Limitation Act, 1963).

⁵²ORDER 33A

Directions for expeditious trial

- (j) In every enquiry or trial, the proceedings shall be held as expeditiously as possible, and, in particular, when the examination of witnesses has once begun, the same shall be continued from day to day until all the witnesses in attendance have been examined, unless the court finds the adjournment of the same beyond the following day to be necessary for reasons to be recorded. For this purpose, at the commencement, and immediately after framing charge, the court shall hold a scheduling hearing, to ascertain and fix consecutive dates for recording of evidence, regard being had to whether the witnesses are material, or eyewitness, or formal witnesses or are experts. The court then shall draw up a schedule indicating the consecutive dates, when witnesses would be examined; it is open to schedule recording of a set of witness' depositions on one date, and on the next date, other sets, and so on. The Court shall also, before commencement of trial, ascertain if the parties wish to carry out admission of any documents under Section 294, and permit them to do so, after which such consecutive dates for trial shall be fixed.
- (ii) After the commencement of the trial, if the court finds it necessary or advisable to postpone the commencement of, or adjourn, any inquiry or trial, it may, from time to time, for reasons to be recorded postpone or adjourn the same on such terms as it thinks fit, for such time as it considers reasonable. If witnesses are in attendance no adjournment or postponement shall be granted, without examining them, except for special reasons to be recorded, in writing.

ORDER 34

THE RECORDING OF EVIDENCE

1. ⁵³Procedure:-

- (i) The depositions of witnesses shall be recorded, in typed format, if possible. The record of evidence shall be prepared on computers, if available, in the Court on the dictation of the Presiding Officer. Provided that in case the language of deposition is to be recorded in a language other than English or Hindi, the Presiding Officer shall simultaneously translate the deposition either himself or through a competent translator into English.
- (ii) The deposition shall be recorded in the language of the witness and in English when translated as provided in **above rule (i)**.
- (iii) The depositions shall without exception be read over by the Presiding Officer in Court. Hard copy of the testimony so recorded duly signed to be true copy by the Presiding Officer/

52. Inserted vide GSR No. 422, Notification No. 03/S.R.O./2020 dt. 15.12.2021 w.e.f. (Pub. Date in Raj.Gaz. i.e on dt.04.03.2022)

53. Substituted vide GSR No. 422, Notification No. 03/S.R.O./2020 dt. 15.12.2021 w.e.f. (Pub. Date in Raj.Gaz. i.e on dt.04.03.2022)

Court Officer shall be made available free of cost against receipt to the accused or an advocate representing the accused, to the witness and the prosecutor on the date of recording.

- (iv) A translator shall be made available in each Court and Presiding Officers shall be trained in the local languages, on the request of the Presiding Officer.
- (v) The Presiding Officers shall not record evidence in more than one case at the same time.

2. Certificate on certain deposition –

In the case of deposition referred to in section 291 of the Code other than those taken on commission under Chapter XXIII of the Code, a Magistrate taking the deposition of District Medical Officer or other medical witness, shall sign at the foot of the deposition a certificate in the form indicated below or a memorandum to the same effect.

The foregoing deposition was taken in the presence of accused who had an opportunity of cross-examining the witness. The deposition was explained to the accused and was attested by me in the presence of the accused.

3. ⁵⁴Format of Witnesses:-

- (i) The deposition of each witness shall be recorded dividing it into separate paragraphs assigning paragraphs numbers.
- (ii) Prosecution witnesses shall be numbered as PW-1, PW-2 etc, in *seriatim*. Similarly, defence witnesses shall be numbered as DW-1, DW-2 etc, in *seriatim*. The Court witnesses shall be numbered as CW-1, CW-2 etc, in *seriatim*.
- (iii) The record of depositions shall indicate the date of the chief examination, the cross examination and re-examination.
- (iv) The Presiding Officers shall wherever necessary record the deposition in question and answer format.
- (v) Objections by either the prosecution or the defence counsel shall be taken note of and reflected in the evidence and decided immediately, in accordance with law, or, at the discretion of the learned Judge, at the end of the deposition of the witness in question.
- (vi) The name and number of the witness shall be clearly stated on any subsequent date, if the evidence is not concluded on the date on which it begins.

4. Contradiction of witnesses by their previous statements-

- (1) When a witness is contradicted by his previous statements and a particular portion is put to him, it is necessary for the court to indicate the portion of the earlier statement(s) which are put to the witness and about which answer is given by the witness before them while recording the evidence.
- (2) To prove, the statement for the purpose of contradiction it is necessary that the contradiction or omission must be brought to the notice of the witness. His or her attention must be drawn to the portion of the previous statement.
- (3) Judges and Magistrate while questioning a witness about his previous statement should not merely note down that he/she has been confronted with particular portion marked 'A' to 'A', 'B' to 'B' etc., without bringing on record the particular statement with

54. Substituted vide GSR No. 422, Notification No. 03/S.R.O./2020 dt. 15.12.2021 w.e.f. (Pub. Date in Raj.Gaz. i.e on dt.04.03.2022)

which a person is confronted and without indicating whether the witness was afforded an opportunity to explain the contradiction or discrepancy and what his explanation was.

- (4) Each statement of fact occurring in the previous statements made by the witness which is inconsistent with the statement made by the him in court should be put separately and point by point to the witness and he be confronted with his previous statement on those points so as to afford him an opportunity to explain the contradiction.
- (5) The practice of putting a long statement to the witness containing several facts, or mere reading out the whole statement should be avoided because it may confuse the witness, thus defeating the very purpose of the wholesome provision regarding confrontation contained in Section 145 of the Evidence Act.

Illustrations

`A`

Statement of X, recorded under Section 161 Cr.P.C. (exhibit 1) contains a portion "I" reached at the spot and clearly saw that Y was killing Z".

While X is being contradicted during court statement, this portion will be indicated in the manner that "portion A to B of statement exhibit A i.e. "I" reached killing "Z"..... Before "I" and after "Z" alphabet A and B will be marked respectively to indicate this portion in statement of X under Section 161 Cr.P.C."

`B`

A witness may have stated in statement under Section 161 Cr.P.C. that -

X murdered Y. In Court witness state `Z` murdered `Y`.

This is a contradiction. Defence counsel or court and even prosecution if witness is declared hostile having resiled from previous statement, is to be confronted to bring contradiction on record. Attention to the witness must be drawn to the previous statement or statement under Section 161 Cr.P.C., where it was stated that `X` murdered `Y`.

The trial court in the event of the contradiction has to record as under -

Attention of the witness has been drawn to portion A to B of statement marked as __ and confronted with the portion where it is recorded that `X` murdered `Y`.

`C`

If a witness omit to state in Court that `X` murdered `Y`, what he had stated in a statement under Section 161 Cr.P.C. will be material contradiction, for Public Prosecutor, as witness has resiled from previous statement, or if `W` has been sent for trial for charge of murder, omission to state `X` murdered `Y` will be a material omission, and amount to contradiction so far defence of `W` is concerned. At that stage also attention of the witness will be drawn to significant portion of the statement recorded under Section 161 Cr.P.C. which witness had omitted to state and note shall be given that attention of the witness was drawn to portion A to A wherein it is recorded that `X` murdered `Y`. In this way omission is brought on record.

(Note- Law laid down in (2005) 12 SCC 657; 1975 SCC (Cri.) 427; (1985) 4 SCC 476; (2004) 7 SCC 487; (2012) 3 SCC 387 should be strictly followed. Presiding Officers of the court should also go through the law laid down in Tahsildar Singh & Anr. Vs. State of U.P. AIR 1959 SC 1012 which can be summarised as under:-

- (1) A statement in writing made by a witness before a police officer in the course of investigation can be used only to contradict his statement in the witness-box and for no other purpose;
- (2) statements not reduced to writing by the police officer cannot be used for contradiction;
- (3) though a particular statement is not expressly recorded, a statement that can be deemed to be part of that expressly recorded can be used for contradiction, not because it is an omission strictly so-called but because it is deemed to form part of the recorded statement;
- (4) such a fiction is permissible by construction only in the following three cases:
 - (i) when a recital is necessarily implied from the recital or recitals found in the statement; illustration: in the recorded statement before the police the witness states that he saw A stabbing B at a particular point of time, but in the witness-box he says that he saw A and C stabbing B at the same point of time; in the statement before the police the word "only" can be implied, i.e., the witness saw A only stabbing B;
 - (ii) a negative aspect of a positive recital in a statement; illustration: in the recorded statement before the police the witness says that a dark man stabbed B, but in the witness-box he says that a fair man stabbed B; the earlier statement must be deemed to contain the recital not only that the culprit be was a dark complexioned man but also that he was not of fair complexion; and
 - (iii) when the statement before the police and that before the Court cannot stand together; illustration: the witness says in the recorded statement before the police that A after stabbing B ran away by a northern lane, but in the Court he says that immediately after stabbing he ran away towards the southern lane; as he could not have run away immediately after the stabbing, i.e., at the same point of time, towards the northern lane as well as towards the southern lane, if one statement is true, the other must necessarily be false. The aforesaid examples are not intended to be exhaustive but only illustrative. The same instance may fall under one or more heads. It is for the trial Judge to decide in each case after comparing the part or parts of the statement recorded by the police with that made in the witness-box, to give a ruling, having regard to the aforesaid principles, whether the recital intended to be used for contradiction satisfies the requirements of law.

5. Recording of evidence of vulnerable witnesses-

Unless otherwise provided, guidelines given in **Appendix-L** shall be followed during the examination of vulnerable witnesses during criminal trial who are victims or witnesses to crime.

55 **ORDER 34A**

1. Subsequent references to Accused, Witness, Exhibits and Material objects:-

- (i) After framing of charges, the accused shall be referred to only by their ranks in the array of accused in the charge and not by their names or other references except at the stage of identification by the witness.
- (ii) After recording the deposition of witnesses, marking of the exhibits and material objects, while recording deposition of other witnesses, the witnesses, exhibits and material objects shall be referred by their numbers and not be names or other references.
- (iii) Where witness cited in the complaint or police report are not examined, they shall be referred to by their names and the numbers allotted to them in the complaint or police report.

2. References to Statements under Section 161 and 164 Cr.P.C.:-

- (i) During cross examination, the relevant portion of the statements recorded under Section 161 Cr.P.C. used for contradicting the respective witness shall be extracted. If it is not possible to extract the relevant part as aforesaid, the Presiding Officer, in his discretion, shall indicate specifically the opening and closing words of such relevant portion, while recording the deposition, through distinct marking.
- (ii) In such cases, where the relevant portion is not extracted, the portions only shall be distinctly marked as prosecution or defence exhibits as the case may be, so that other inadmissible portions of the evidence are not part of the record.
- (iii) In cases, where the relevant portion is not extracted, the admissible portion shall be distinctly marked as prosecution or defence exhibits as the case may be.
- (iv) The aforesaid rules applicable to recording of the statements under Section 161 shall *mutatis mutandis* apply to statements recorded under Section 164 of the Cr.P.C., whenever such portions of prior statements of living persons are used for contradiction/corroboration.
- (v) Omnibus marking of the entire statement under S.161 and 164 Cr.P.C. shall not be done.

3. Marking of Confessional Statements:-

The Presiding Officers shall ensure that only admissible portion of Section 8 or Section 27 Indian Evidence Act, 1987 is marked and such portion alone is extracted on a separate sheet and marked and given an exhibit number.

ORDER 35

GENERAL PROVISIONS REGARDING INQUIRIES AND TRIALS IN CRIMINAL COURTS

1. Daily Cause List –

- (a) A daily list of cases fixed for hearing in every Court prepared in legible Hindi/ English in the prescribed Form **(F.101)** shall be pasted on the previous working day in some conspicuous place of the court house. The cause list shall also show the purpose for which a case has been fixed. The daily cause list so prepared shall be uploaded on the Case Information System.
- (b) If a case for a day on which the Court does not sit on account of its being later found or declared to be a holiday is not taken up on that day, it will be taken up on the next day on which the Court sits.
- (c) After court hours, the result/ proceedings held in each particular case will be indicated and entered in the office copy of the cause list and the same shall also be uploaded in the Case Information System latest by the next working day.

2. Distribution of work by the C.J.M. –

- (a) Subject to the control of the Sessions Judge, the Chief Judicial Magistrate may from time to time give special orders under section 15(2) of the Code as to the distribution of the business among, the Judicial Magistrates subordinate to him.
- (b) Complicated, important or serious cases shall ordinarily be tried by the Chief Judicial Magistrate,
- (c) While disturbing business, due weightage will be given to the classification and grouping of cases.

3. Complaint-

- (a) Every complaint filed before a court shall be in duplicate and be duly supported by an affidavit verifying its contents. In every complaint reason for invocation of the jurisdiction of the Magistrate shall be stated. It should be clearly spelt out in the application supported by documents whether procedure laid down under Section 154(1) and 154(3) of the Code has been followed or not.
- (b) Before any complaint is sent to a police officer for inquiry or investigation under the Code of Criminal Procedure 1973, duplicate copy thereof shall be retained in the court after authentication and shall remain in Part A of the file.

4. Brief Holders –

A legal practitioner when unable personally to attend a case in which he is briefed, may hand over the brief to another legal practitioner without the latter filing a Vakalatnama.

5. Police Report to contain additional information-

- (a) In addition to the other requisites, police report shall contain-
 - (i) Mobile phone numbers/ land line numbers/ email ID (if any) of the complainant, accused and witnesses so also,

their complete permanent residential address along with color photograph & ID proof (any two mentioned in **Appendix-K**. Details thereof shall be mentioned opposite to the names of the concerned in the form of a list to be annexed with the charge-sheet.

Provided, that aforesaid particulars in case of victim of sexual harassment shall be submitted in a sealed cover in the court; same will be re-sealed and kept in safe custody in the court.

- (ii) Details regarding character and previous conduct of each accused.
- (iii) Details with relevant proof regarding previous conviction and sentence, if any.

(b) The bond under Section 170(2) of the Code shall contain an undertaking to the effect that any change in permanent residential address or the phone number will be immediately conveyed by the witness to the SHO of the concerned Police Station and the SHO shall forward the same to the concerned court as soon as he receives the information.

6. District Magistrate and Director General of Police to be informed of police errors –

When in any case of which a Court has taken cognizance, the Presiding Officer has occasion to notice any erroneous practice on the part of the police or has reason to believe that a confession has been elicited by the police from an accused person by the use of force or undue influence, or that any other grave irregularity has occurred, he shall bring the matter to the notice of the District Magistrate concerned or Inspector General of police/ Director General of Police. It shall be incumbent on the authority so informed to apprise the Presiding Officer concerned of the action taken by it in the matter.

7. Previous conviction to be noted in judgment –

If the accused, having been previously convicted of any offence, is liable, by reason of such previous conviction, to enhanced punishment, or to punishment of a different kind, for a subsequent offence, and it is intended to prove such previous conviction for the purpose of affecting the punishment which the court may think fit to award for the subsequent offence, the fact, date and place of the previous conviction shall be stated in the charge, and if such statement has been omitted, the court may add it at any time before sentence passed.

8. Post Office records not to be disclosed unnecessarily –

When any journal or other record of a post office is produced in Court, the Court shall not permit any portion of such journal or record to be disclosed other than the portion which seems to the Court necessary for the determination of the case before it.

9. Affidavit to be stamped –

A Magistrate shall not allow an affidavit, which is not one exempted from stamp duty to be sworn before him unless it is stamped.

10. Memo of identification proceedings –

Identification proceedings in jail for identification of suspects shall invariably be conducted as per the procedure laid down in Section

54A of the Code of Criminal Procedure 1973 and recorded in the prescribed Form **(F.143)**.

Provided that, if the person identifying the person arrested is victim of sexual harassment, every care should be taken to protect the identity of such person and record of the proceeding shall be forwarded to the concerned Court in a sealed cover.

Proceedings for identification of property shall be recorded by Magistrates in the prescribed Form **(F.144)**.

Such proceedings shall be held as expeditiously as possible but not later than fifteen working days.

11. Surety to submit ID proof-

(a) The surety shall submit an affidavit while affixing upon it a latest coloured photograph of himself/herself and besides information about his/her financial capacity. The information on the following points must be verified on oath:-

(i) How and since when he knows the person for whom he is standing as surety.

(ii) Whether and in how many cases, he has furnished surety.

(iii) His permanent and present residential address.

(iv) Whether, the person for whom he is furnishing surety in bail or somebody on his behalf has paid him or agreed to pay any gratification in any manner.

(b) Reliable address proof as per **Appendix-K** and contact number e.g. mobile number/ landline number/ email ID of the surety shall be taken on record.

(c) The court may ask for documentary proof regarding financial capacity of the surety and may take on record copies of such documents.

12. Release order to be sent to jail, if person bailed is in jail –

When a person confined in jail is admitted to bail by order of a Court, the Presiding Officer shall see that the order of release is entered in a letter delivery book in the prescribed register **(Register No.261)** and sent through one of the Court's peon to the Officer-In-charge of the jail whose signature should be obtained in the letter delivery book in token of the delivery of the release order to him. Such orders should in no case be made over to private persons for delivery to jail authorities.

13. Custody of property concerning a criminal case –

The property concerning a criminal case produced in a Court shall be kept in custody of the official attached to the Court or may authorize any person to keep in custody as the court may think fit.

14. List of documents –

All documents filed in the Court by a party or a witness shall be accompanied by a list of documents in Form **(F.145)** as envisaged by section 294(1) of the Code.

15. Witnesses to give evidence from the witness box –

(a) No witness should be provided with any seat on the dais. All witnesses shall give their evidence from the stand provided in the court for this purpose. However, the Presiding Officer may allow the witness to be seated while giving evidence considering valid grounds such as (i) Infirmity, (ii) old age, (iii) inordinate length of time in giving evidence, and (iv) for any other sufficient reason which is justified in the opinion of the

- court.
- (b) Priority in recording evidence shall be given to the aged, infirm, child, woman witnesses and those holding public office e.g. Judicial Officer, Medical Officer, Officer belonging to Army, Air force, Navy, Police Officer, Administrative Officer etc.
 - (c) As far as possible, a convenient waiting place shall be provided to the witnesses till the time their statement is recorded by the court.
- 16. Matter of public importance disposal thereof-**
In any criminal case or proceeding, if the Advocate General or the Public Prosecutor gives a certificate to the effect that a matter of urgent public importance or public interest is involved therein, the court shall give such case or proceeding top priority and shall hear and dispose it off as expeditiously as possible.
- 17. Disposal of cases involving petty offences –**
For expeditious disposal of cases involving petty offences, the procedure laid down in sections 206 and 253 of the Code shall be strictly adhered to. Special Summons in such cases shall be issued in the prescribed form No. 30 of Second Schedule of the Code. The list of petty offences under section 206(2) of the Code which though not exhaustive but illustrative is given in Appendix-A of the Code of Criminal Procedure for the guidance of the Presiding Officers.
- 18. Police diaries not to be made part of record –**
(a) Presiding Officers summoning police diaries from the investigating agencies shall not keep them tagged with the Court file in view of sub- section (3) of section 172 of the Code. Such case diaries shall be kept separately and may be looked into by the Presiding Officers whenever need arises and in case they are not required any further they should be returned immediately to the investigating agency concerned.
(b) Whenever case diary is produced before the court during the course of enquiry or for obtaining remand under Section 167 Cr.P.C., the Presiding Officer of the court concerned shall signature over it and fact of making signature should also be recorded in writing.
- 19. Fixing of date in transferred case –**
When a case is transferred from one Court to another, the Court which is seized of the case should fix a date for the appearance of the parties in the transferee Court before sending the record and should give intimation to the party or pleaders of the parties about it. The transferee court shall take up the matter on the date fixed for hearing. No adjournment shall be granted on account of transfer of case.
- 20. Attendance of appellant in criminal appeals –**
Ordinarily, the judgment in appeal should be pronounced in the presence of the accused appellant, so that if he is convicted he may be taken in custody forthwith. Therefore, the Presiding Officers hearing appeals must insist on the presence of the accused in Court particularly at the time when the judgment is pronounced.

56 **ORDER 35A**

THE JUDGMENT

1. Every Judgment shall contain the following:-
 - i. Start with a preface showing the names of parties as per FORM A to the Rules.
 - ii. A tabular statement as per FORM B to the Rules.
 - iii. An appendix giving the list of prosecution witnesses, defence witnesses, Court witnesses, Prosecution Exhibits, Defence Exhibits and Court Exhibits and Material Objects as per FORM C to the Rules.
2. In compliance with Section 354 and 355 Cr.P.C., in all cases, the judgments shall contain:
 - I. the point or points for determination.
 - II. the decision thereon, and
 - III. the reasons for the decision.
3. In case of conviction, the judgments shall separately indicate the offence involved and the sentence awarded. In Case there are multiple accused, each of them shall be dealt with separately. In Case of acquittal and if the accused is in confinement, a direction shall be given to set the accused at liberty, unless such accused is in custody in any other case.
4. In the judgment the accused, witnesses, exhibits and material objects shall be referred to by their nomenclature or number and not only by their names or otherwise. Wherever, there is a need to refer to the accused or witnesses by their name, the number shall be indicated within brackets.
5. The judgment shall be written in paragraphs and each paragraph shall be numbered *in seriatim*. The Presiding Officers, may, in their discretion, organize the judgment into difference sections.

ORDER 35B **MISCELLANEOUS**

1. **Bail :-** (i) The application for bail in non-bailable cases must ordinarily be disposed off within a period of 3 to 7 days from the date of first hearing. If the application is not disposed off within such period, the Presiding Officer shall furnish reasons thereof in the order itself. Copy of the order and the reply to the bail application or status report (by the police or prosecution) if any, shall be furnished to the accused and the accused on the date of pronouncement of the order itself.
(ii) The Presiding Officer may, in an appropriate case in its discretion insist on a statement to be filed by the prosecutor in charge of the case.
2. **Separation of Prosecutors and investigators:-** The State Governments shall appoint advocates, other than Public Prosecutors, to advise the Investigating Officer during investigation.

56. Inserted vide GSR No. 422, Notification No. 03/S.R.O./2020 dt. 15.12.2021 w.e.f. (Pub. Date in Raj.Gaz. i.e on dt.04.03.2022)

ORDER 36

CUSTODY AND DISPOSAL OF PROPERTY

1. Register of malkhana articles -

Any property produced in the Criminal Court shall be entered in the Malkhana Register (**Register No.262**) immediately after the receipt thereof. It shall be the primary responsibility of the Clerk-in-charge Malkhana or any other clerk nominated in that behalf by the Sessions Judge to maintain the register regularly who shall also sign every entry. The entries made in the register shall be countersigned by the Presiding Officer or the Officer-in-charge Malkhana, as the case may be.

2. Description of articles –

(a) Accurate and correct description of every article must be mentioned in the Register of Malkhana articles as per the description given in Form (**F.146**). In case of weapons, the description thereof must be mentioned with such particulars as may enable the Clerk-in-charge to produce it in the Court without delay.

(b) In case of valuable property such as valuable metals or ornaments prepared out of such metals, full description of such properties alongwith their weight shall be noted in column No. 9 of the register as per the description given in Inventory or Form (**F.146**).

3. Storage of case property –

(a) The entry number of the Malkhana Register shall be noted on each property. Identity slips giving full particulars of the case shall be attached to the articles. A list of articles indicating serial number of each set of articles case-wise may be hung at a conspicuous place in the Malkhana. The Clerk-in-charge Malkhana, will issue Malkhana Slip (F. XV) to the case clerk after incorporating necessary entries in it.

(b) Valuable property shall immediately be kept in the double lock. One key of the double lock will be kept by the Officer-in-charge of Malkhana or the Presiding Officer, as the case may be, and other by the Clerk-in-charge of Malkhana. The double lock safe shall always be opened in the presence of the Officer-in-charge of Malkhana or the Presiding Officer, as the case may be. The Register of valuable properties shall be kept in it and entry shall be made every time it is operated under the signatures of the Officer-in-charge or the Presiding Officer, as the case may be, and Clerk-in-charge of Malkhana.

(c) The Presiding Officer/ In-charge Malkhana shall ensure that due care is taken against tampering with, misuse, distortion or damage while storing electronic equipments/ devices like SIM, Pen Drive, Memory Card, Electronic Media and Digital Device etc. in the Malkhana.

(d) Every identity slip of any article shall be generated by the system on a glued sheet in duplicate; one slip will be kept on case file and another will be affixed on article deposited in Malkhana. Such identity slip shall be replaced as and when require so as to make it legible.

4. Security by Malkhana Clerk. –

The Clerk-in-charge, Malkhana will furnish security of the amount as may be directed by the Sessions Judge from time to time.

5. Receipt of case property by the Malkhana Clerk –

Every property forwarded by the police or any other agency to a Criminal Court shall be accompanied by an inventory (**F.146**) in triplicate. The clerk-in-charge on receiving the property shall satisfy himself without breaking the seal of the article(s) that it corresponds with the items given in the inventory and shall endorse a receipt on one copy of the inventory and hand over the same to the depositor who produced the property. One of the copies of the inventory shall be retained by the Clerk-in-charge, Malkhana, while the third copy shall be placed on the record of the case concerned. Clerk In-charge Malkhana will copy the entries of Form (**F.146**) in the Case Information System.

Provided, that if the property forwarded by the police or any other agency is in sealed cover, it shall be kept in the seal cover. Seal will not be broken for verification of contents of the packet at the time of deposit.

If during enquiry or trial, it is necessary to verify the contents of the packet, then it shall be broken; after recording the details, contents (property) will be re-sealed with the seal of the court. A note thereof shall be mentioned in the record.

6. Arrangement for production of property in different Courts –

When a property is to be taken away from one Court to another Court located at a different place or to be produced before the High Court, it shall be carried by a member of the staff of the Court. The valuable articles, arms and ammunition shall be carried with the police escort which shall be provided by the Superintendent of Police.

7. Production of properties from Malkhana –

The Case Clerk or the Reader shall give the Malkhana Slip (**F.147**) to the Clerk-in-charge, Malkhana a day before the date of hearing. The Malkhana Clerk shall hand over the property to the Reader or the Case Clerk before the case is called for hearing and obtain a signature on the Malkhana Slip. The property shall be returned to the Malkhana Clerk the same day after the hearing of the case when it is not required, under his signature on the Malkhana Slip. The Malkhana Slip shall be tagged with the file.

8. Verification of Malkhana Registers –

The Presiding Officer or the Officer-in-charge of Malkhana, as the case may be, shall verify personally once a year the property with reference to the registers of Malkhana articles and shall make an endorsement with the date of verification in the remarks column of the registers. Every Presiding Officer or the Officer-in-charge Malkhana, other than the Sessions Judge shall make a report to the Sessions Judge, having verified the properties indicating in brief, result of such verification.

9. Disposal of property to await the result of appeal or revision–

In cases where appeal or revision lies to the Supreme Court, High Court or Sessions Court, the Court shall not dispose of the case property for 6 months after the expiry of the period of limitation for appeal or revision or both and if intimation regarding the filing of appeal or revision is received, till the disposal of the appeal or revision.

Provided that the seized Narcotic Drugs and Psychotropic Substances shall be disposed of, without any undue delay and in accordance with the provisions of Section 52A of the Narcotics Drugs

and Psychotropic Substances Act, 1985.

Provided further, that in appropriate cases and for reasons to be recorded in writing, the court may dispose of malkhana articles, during pendency of trial/ appeal/ revision while retaining its representative sample and while taking colour photographs etc. on record.

10. Disposal of valuable articles, currency notes, vehicles and liquor/narcotic drugs during pendency of trial-

(1) Valuable articles

Valuable articles such as golden or silver ornaments or articles studded with precious stones, need not be kept in police custody for years till trial is over. The Magistrate should pass appropriate orders as contemplated under Section 451 Cr.P.C. at the earliest. For this purpose, if material on record indicates that such articles belong to the complainant at whose house theft, robbery or dacoity has taken place, then seized articles be handed over to the complainant after:

- (1) Preparing detailed proper panchnama of such articles;
- (2) Taking photographs of such articles and a bond that such articles would be produced if required at the time of trial; and
- (3) After taking proper security.

For this purpose, the court may follow the procedure of recording such evidences, as it thinks necessary, as provided under Section 451 Cr.P.C. The bond and security should be taken so as to prevent the evidence being lost, altered or destroyed. The court should see that photographs of such articles are attested or countersigned by the complainant, accused as well as by the person to whom the custody is handed over. Still however, it would be the function of the court under Section 451 Cr.P.C. to impose any other appropriate condition.

In case, where such articles are not handed over either to the complainant or to the person from whom such articles are seized or to its claimant, then the court may direct that such articles be kept in bank lockers. Similarly, if articles are required to be kept in police custody, it would be open to the SHO after preparing proper panchnama to keep such articles in a bank locker. In any case, such articles should be produced before the Magistrate within a week of their seizure. If required, the court may direct that such articles be handed back to the investigating officer for further investigation and identification. However, in no set of circumstances the investigating officer should keep such articles in custody for a longer period for the purposes of investigation and identification.

(2) Currency Notes –

Aforesaid procedure for valuable articles shall be followed.

(3) Vehicles -

It is of no use to keep such seized vehicles at the police stations for a long period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if

required at any point of time. This can be done pending hearing of applications for return of such articles.

In case where the vehicle is not claimed by the accused, owner, or the insurance company or by a third person, then such vehicle may be ordered to be auctioned by the court. If the said vehicle is insured with the insurance company then the insurance company may be informed by the court to take possession of the vehicle which is not claimed by the owner or a third person. If the insurance company fails to take possession, the vehicles may be sold as per the direction of the court. The court would pass such order within a period of six months from the date of production of the said vehicle before the court. In any case, before handing over possession of such vehicles, appropriate photographs of the said vehicle should be taken and detailed panchnama should be prepared.

(4) Liquor/ narcotic drugs -

For articles such seized liquor also, prompt action should be taken in disposing of them after preparing necessary panchnama. If sample is required to be taken, the sample may be kept properly after sending it to the Chemical Analyser, if required. But in no case, a large quantity of liquor should be stored at the police station. No purpose is served by such storing.

Similarly, for the narcotic drugs also, for its identification, procedure under Section 451 Cr.P.C. should be followed of recording evidence and disposal. Its identity could be on the basis of evidence recorded by the Magistrate (*See Section 52A of the Narcotics Drugs and Psychotropic Substance Act 1985*). Samples also should be sent immediately to the Chemical Analyser so that subsequently, a contention may not be raised that the article which was seized was not the same.

However, these powers are to be exercised by the Magistrate concerned. The Magistrate concerned would take immediate action for seeing that powers under Section 451 Cr.P.C. are properly and promptly exercised and articles are not kept for a long time at the police station; in any case, for not more than fifteen days to one month.

11. Special order regarding disposal of property –

In case where the property cannot be disposed of in the manner directed by the Court, specific orders of the Court should be obtained for its disposal in any other manner.

In case no order has been passed for disposal of any property, order for its disposal shall be obtained from the Court.

12. Notice for the return of property –

After a case is finally disposed of by the Appellate or Revisional Court or where no appeal or revision has been filed and the period of limitation of appeal or revision has expired, the person to whom the property is to be delivered, be notified to appear before the Officer-in-charge of Malkhana or the Presiding Officer concerned, as the case may be, to receive the property. If he fails to do so within 30 days from the date of receipt of notice, the property shall be sold at his cost by public auction and the amount so realized shall be credited to Government account. In case the person entitled to the property fails to claim the same prior to the sale thereof, the Court

may on his application subsequently direct payment of the amount obtained from the sale, of such property after deducting the expenses in conducting the sale thereof.

13. Unclaimed notes and coins –

In case the property referred to in the preceding rule consists of currency notes or coins or both, the person entitled to the same shall be notified to receive the same. If he fails to appear for receiving the same within 30 days of the receipt of the notice, the amount shall be credited to the Government. If the person entitled to the property appears subsequently, the Court may, on his application direct payment of the amount in its discretion.

14. Public auction when to take place –

The property ordered to be forfeited to the State shall be disposed by the public auction after the final disposal of the case, appeal or revision or if no appeal or revision has been preferred, six months after the expiration of period of limitation of appeal or revision.

15. Sale by whom to be conducted and how to be made -

- (a) The sale shall be conducted by the Nazir or any other officer duly authorized by the Court. The Officer-in-charge of Malkhana or the Presiding Officer, as the case may be, shall cause a proclamation of the intended auction and sale shall be published on the notice board of the court concerned and in such other manner, if the Court may so direct.
- (b) Such proclamation shall state the date, time and place of sale and specify as accurately as possible the description of the property to be sold.
- (c) It shall be incumbent on the Officer-in-charge of Malkhana or the Presiding Officer, as the case may be, to fix minimum sale price of the articles to be sold.
- (d) No person shall be allowed to make a bid unless he/ she deposits in cash 10% amount of the minimum sale price of the articles. It shall also state that the highest bidder will have to pay the price immediately. Amount of security deposit of unsuccessful bidder(s) shall be refunded immediately after the bid is finalized.
- (e) The sale shall not take place until after the expiration of at least 15 days from the date on which the copy of the proclamation has been affixed on the Court's notice board.
- (f) Auction sale shall be held during the Court hours and within the Court premises.
- (g) The Nazir or the officer conducting the sale may adjourn the sale to a specified date and hour, not exceeding a period of 7 days with the approval of the Officer-in-charge of Malkhana or the Presiding Officer, as the case may be.
- (h) No public servant and no officer or other person concerned with the sale in any manner, shall bid for, acquire or attempt to acquire an interest in the property sold.
- (i) Proceedings of the sale shall be recorded on the bid-sheet.
- (j) Sale shall be confirmed in the name of the highest bidder unless the Officer-in-charge of the Malkhana or the Presiding Officer, as the case may be, thinks that the bid offer is grossly inadequate, in which case the property shall be put to sale again.
- (k) The price of the articles shall be paid at the time of the sale.
- (l) The Nazir or the officer conducting the sale shall issue a receipt for the price paid and then hand over the property to

the purchaser.
(m) If the price is not paid, the property shall be resold.

16. Disposal of forged currency notes, counterfeit coins and implements –

All counterfeit coins and forged currency notes forfeited by the Court shall be forwarded to the Issue Department of the Reserve Bank of India or the Master of the Mint, Security Press, as the case may be, with a brief report of the case. Similarly, moulds, dies and any other implements used for counterfeiting coins and forging currency notes should be sent to the Master of Mint, Security Press, Nasik Road.

17. Disposal of fire-arms-

(1) All arms and ammunitions which are confiscated shall be sent to the District Magistrate concerned. Firearms and ammunitions should not be delivered to a person till a licence is produced by him. If the licence is not produced within a reasonable time, the articles should be sent to the District Magistrate for disposal in accordance with law.

(2) Country-made Firearm – Country made firearm should be destroyed in the presence of Officer Incharge of the Malkhana after the expiry of the period of limitation for appeal or revision or both and if intimation regarding the filing of appeal or revision is received, till the disposal of the appeal or revision. It should not be handed over to police for destruction.

18. Disposal of excisable goods in court's custody-

Excisable goods which are confiscated to the State, shall be dealt with according to rule 78 of the Rajasthan Excise Rules, 1956.

19. Submission of quarterly return –

By the 10th of April, 10th of July, 10th of October and 10th of January, every Magistrate doing criminal work and every Assistant and Additional Sessions Judge shall submit to the Sessions Judge a statement of Malkhana articles in the prescribed Form (**Return No.21**). The Sessions Judge shall compile the statements after adding the figures of his own Court to those of Courts subordinate to him, shall scrutinize all the statements and shall submit them with his comments to the High Court by 15th of April, 15th of July, 15th of October and 15th of January.

ORDER 37
SUBMISSION OF SENTENCE FOR
CONFIRMATION AND EXECUTION OF
SENTENCE

- 1. Procedure on passing sentence of death -**
When a Court of Sessions passes a sentence of death, it shall forthwith commit the prisoner by a warrant in the appropriate Form No. XXXX of the Code to the jail from which he came to stand his trial, and shall submit its proceedings to the High Court with a letter in the prescribed Form **(F.148)** at the latest on the fourth day after the sentence of death has been pronounced. A copy of the judgment shall be furnished to the prisoner immediately free of cost as contemplated by the proviso to sub-section (2) of section 363 of the Code.
- 2. Counsel for prisoner –**
When a Court of Sessions submits its proceedings to the High Court in the manner laid down in the preceding rule, it shall state in the prescribed Form **(F.147)** whether the prisoner has funds or not to employ counsel in the High Court and whether the prisoner will employ counsel or not.
- 3. Female prisoner sentenced to death –**
When a Court of Sessions sentences a female prisoner to death, it shall consider after enquiring from such prisoner herself, if necessary, whether she is pregnant and if it thinks that it is likely, it shall have her examined by the District Medical Officer or such other doctor as it may consider fit and if it finds that she is in fact pregnant, it shall make a report to the High Court. But the submission of the proceedings to the High Court under rule 102 shall not be delayed on this account.
- 4. Date of execution –**
The date fixed by a Court of Sessions in a warrant for execution of a sentence of death shall be not less than 67 days but not more than 74 days from the date of confirmation of the death sentence by the High Court, unless it be otherwise directed in the order of confirmation.
- 5. If date postponed fresh warrant to be issued –**
When a warrant for the execution of a sentence of death has not been executed upon the date fixed owing to the postponement of execution by an order of the Government, and is returned to the Court with a certificate to that effect, the Judge shall, if the Government has refused to interfere with the execution of the sentence of death, issue a warrant in the same form as before, fixing another date for the execution of the sentence, which shall be not more than seven days from the date of issue of such warrant.
- 6. Copy of warrant to be sent to District Magistrate –**
On issuing a warrant for execution of a sentence of death, the Court of Sessions shall forward a copy of the same to the District Magistrate for information.
- 7. Separate warrant to jail for each convict –**
A separate warrant shall be directed to the Officer-in-charge of the jail for each prisoner in respect of whom a sentence of imprisonment is passed; the warrant shall show the serial number of the case, and shall bear the same date as the sentence bears. It shall state the period in

words as well as in figures and description of imprisonment and shall be drawn upon the prescribed Form **(F.155)** of the Code. It shall contain full particulars as to any alternative sentence of imprisonment to be undergone in default of payment of fine, and as to any period of solitary confinement ordered. It shall mention the period of pre-conviction detention for the purpose of set off as contemplated by section 428 of the Code. The following particulars must be clearly and legibly mentioned in the warrant :-

- (1) Date of arrest of the convict;
- (2) Date of remand to the police custody and the period spent in police custody;
- (3) Date of remand to the judicial custody and the period spent in judicial custody;
- (4) The total period of detention to be set off against the sentence of imprisonment.

If the prisoner is a military officer or soldier, his rank and regiment or department shall be stated in the warrant.

If the prisoner, has been previously convicted, particulars of each previous conviction showing the date and nature of each sentence, and the section and Act under which it was passed, shall be endorsed upon the warrant.

The Court shall fill in the prescribed Form **(F.149)** regarding classification of convicts and attach it to the record in all cases of prisoners sentenced by it or committed to the sessions, in order that it may be filed with prisoner's warrant and sent to jail with the prisoner.

8. Orders of fines—

- (i) Whenever any person convicted of an offence is sentenced or ordered to pay a fine;
- (ii) Whenever any person is ordered to pay into Court for delivery to any other person any sum by way of compensation, or of reimbursement of fines or fees paid;
- (iii) Whenever any person is permitted to deposit a sum of money in lieu of executing a bond;
- (iv) Whenever any person is called upon to pay the penalty or aforesaid bond; and
- (v) Whenever a Criminal Court orders repayment of court fee; Presiding Officer shall ensure entries of amount of the fine, compensation or other sum, deposit, penalty or fee in the prescribed register of fines, compensation deposits, penalties and fees **(Register No.263)**.

9. Fines paid into Court to be sent to treasury –

When the amount of fine, compensation or other sum, deposit, penalty or fee is paid into Court, the Presiding Officer shall send the money, as soon as possible, to the nearest treasury or sub-treasury or a scheduled bank authorized to receive money on behalf of the Government, as the case may be, and shall send therewith e-challan in-triplicate in the prescribed Form **(F.150)** signed by him.

10. Fines not paid at once may be paid to Officer-in-charge of Jail-

When a person is undergoing imprisonment in default of any such payment, the Officer-in-charge of the jail may receive payment of the whole amount or of any part thereof, and shall thereupon complete the execution of the warrant or order of imprisonment as provided by law.

11. Procedure in cases under rule 10 –

When any officer receives a payment as described in rule 10 or when the officer conducting a sale under a warrant receives the sale proceeds, the money so received shall be sent, as soon as possible, to

the nearest treasury or sub-treasury or a scheduled bank authorized to receive money on behalf of Government, as the case may be.

The Court or officer receiving the money shall inform the Court which ordered the payment about the amount received and forward the original treasury voucher under which it was paid into the treasury or an attested copy thereof to such Court.

12. Details to be noted in e-challan –

In e-challan and warrant for distress and sale, there shall be made a clear entry as to the number of the case, the exact nature of the payment made or to be made, the person who is or was liable for the payment, and the manner in which the amount paid is to be credited to Government or to a Municipal or Cantonment fund as required by law or the orders of Government or as a Criminal Court deposit.

13. Payment to Treasury to be made as early as possible –

- (1) Every sum received by a Court or officer shall be deposited within three days of receipt to a treasury or sub-treasury or where there is no treasury or sub-treasury, in a scheduled bank authorized to receive money on behalf of the Government, as the case may be.
- (2) If the treasury or sub-treasury or the Bank is closed on last day, then the next day on which the treasury or sub-treasury or the Bank is open.
- (3) When a court or officer is at a distance from the treasury or sub-treasury or such bank, receipts not exceeding Rs.2000/- shall be deposited therein at least once in a fortnight, but if the receipts exceeds sum of Rs.2000/-, it shall be deposited at the earliest.
- (4) When sums more than one are sent at the same time, a separate e-challan in triplicate shall be sent for each sum. Sums shall be sent through e-challan **(F.150)** which shall contain details regarding each item included in the amount remitted by the e-challan.
- (5) When any sum received in a court is not sent to the treasury or sub-treasury or scheduled bank authorized to receive money on behalf of the Government, as the case may be, within three days, the Presiding Officer shall make arrangements for its safe custody until it can be remitted.

14. Court receipt book –

Every Court shall issue a receipt in Form **(F.151)** to every person making the payment to the court. The receipt shall be generated through Case Information System.

15. Payment to be entered in register and receipts given-

When any payment is made into Court under preceding rule and when duly authenticated intimation of any payment is received under preceding rules, the Court shall make an entry of the receipt in the appropriate register and shall cause a receipt for the amount to be prepared in triplicate, one for depositor, one for record and one for accounts. Such receipt shall be made over to the payer, if he is present. If he is not present, it shall be sent to him by post; if he is in custody through the officer-in-charge of the jail.

Upon the counterfoil of every court fee receipt, the number and the date of treasury receipt upon the e-challan under which the money was paid into treasury shall be entered as soon as possible and such e-challan shall then be filed with the record.

16. Refunds –

When an order is made for the refund of a sum which has been credited in the treasury, the order or a copy thereof shall at once be sent to the

Court which directed the credit and that Court shall take necessary steps for its refund. Any refund to party shall be transferred to the bank account of the party concerned.

17. Register of fines –

The register of fines, compensation, deposits, penalties and fees shall be maintained in the prescribed Form (**Register No.263**). A fresh page shall be begun each month. A separate line shall be given for each person ordered to make any payment even if two persons or more are subjected to such an order in one case. The entries in respective column shall be made as soon as the judgment/ order is passed. The entry in relevant column shall be made as soon as the warrant for levy is issued. The entries in respective columns shall be made as soon as payment is made or on receipt of information, from the Treasury that the deposit has been credited to Government. These entries shall be checked and initialed by the Presiding Officer. He shall compare the amount entered in the Court receipt book with that entered in the treasury receipt and also with the amount entered in respective column.

In column 18, a note to the following effect shall be made:—

- (a) The amount of fine which is not credited to the Government.
- (b) Exact nature of every sum other than a fine entered in column 7.
- (c) Provision of law under which every sum entered in column 8 is awarded and a clear statement whether it is intended as compensation or reimbursement or reward.
- (d) When a deposit made in lieu of executing a bond is forfeited either wholly or in part, then the serial number and the year of the entry of penalty, against the entry of the deposit.

A separate entry shall be made in columns 1 to 7 when a deposit made in lieu of executing a bond is forfeited wholly or in part, as soon as the order of forfeiture is passed.

18. Irrecoverable amounts –

Any Sessions Judge or District Magistrate and any judicial or executive Magistrate, as the case may be, with the written permission of the Sessions Judge or the District Magistrate, as the case may be, may at any time write off as irrecoverable any amount of which recovery has been ordered by his Court or in case that Court has been abolished, by the successor Court, if it appears to him that the amount cannot be recovered:

Provided that the sanction of the Sessions Judge or the District Magistrate, as the case may be, shall be unnecessary when the ground for remission of the fine is that the offender has undergone the imprisonment for the full term awarded by the Court in default of payment of fine.

Explanation - For the purpose of this rule, the term Sessions Judge be deemed to include an Additional or Assistant Sessions Judge.

19. Monthly certificate on register of fines –

At the end of every month, the Presiding Officer of each Court shall certify on the register of fines, compensations, deposits, penalties and fees that he has examined all outstanding items that seem capable of realisation and has taken proper steps in each case.

At the beginning of every year, before making entries for that year, all the outstanding items which remain unrealized shall be entered in red ink.

20. Statement of demand, collection and balance of fines –

At the end of every month, the Presiding Officer of each Court shall submit to the Sessions Judge or to the District Magistrate, as the case may be, a statement in the prescribed Form **(Return No.22)** showing the demand, collection and balance of fines levied and written off. The statement shall refer to the account month of the treasury or sub-treasury with which the Court deals. The Sessions Judge and the District Magistrate should each consolidate these returns into a monthly fines statement **(Return No.23)** for the Courts under him and for his own and forward it to the Treasury Officer, as soon as possible, after the end of the month, for verification of the amounts shown as remitted into the treasury with the credit appearing in the treasury account. The Treasury Officer should certify the correctness or otherwise of these amounts. Where there is any discrepancy between a consolidated statement and the treasury account the Treasury Officer, may if necessary, before giving his certificate request the Sessions Judge or the District Magistrate, as the case may be, to explain the discrepancy.

21. Statement of fines –

- (a) All amounts realized by Criminal Courts as fines and payable to municipal funds should be credited to the local fund account concerned.
- (b) A monthly return in the prescribed Form **(Return No.24)** of all amounts realized by Criminal Courts as fines and credited as required by law to local fund account shall be transmitted to the concerned local body.

22. Record-keeper to decline taking record till recovery or non payment accounted for –

The record-keeper shall not take delivery of the record of any case in which the recovery of payment of money has been ordered unless money is realised or reported to be irrecoverable or an acknowledgment of its receipt by the Officer-In-charge of the treasury or sub-treasury or other person entitled to receive money, or a report signed by the Presiding Officer of the Court accounting for non-payment is filed therein.

23. Officer-in-charge of jail to be informed of payment –

Every Court upon receiving a payment on behalf of a person who is in jail under a warrant directing imprisonment in default of such payment shall at once inform the Officer-in-charge of the jail, if the payment was received otherwise than through the jail.

24. Warrant to be filed after execution –

When a warrant or an order upon which a sentence is executed is returned after execution to the Court by which it was issued, the Court shall send it to the record room to be filed with Part A of the record of the case to which it belongs.

ORDER 38

APPEAL

1. Presentation of Appeal—

Every memorandum of appeals shall be filed at Centralized Filing Counter.

- (a) If at the time of filing the memorandum of appeal, appellant is in jail, such memorandum of appeal may be presented either to the Officer-in-charge of prison by the prisoner himself, or before such official appointed by the court or by the District Judge to receive such presentation by a pleader authorized by him. A memo of appearance or vakalatnama, if filed, shall be signed by the prisoner and forwarded by the officer-in-charge of prison under his signature after due attestation.
- (b) If such memorandum of appeal is presented before Superintendent of the Jail, he shall send the memorandum of appeal to the concerned Court.
- (c) If it appears from the memo of appeal that the prisoner wishes to be represented by pleader, the court shall not proceed with the memo of appeal until seven days have elapsed, since the date of its receipt unless pleader appears earlier. If it appears that the prisoner has no sufficient means to engage a pleader the court shall assign a pleader for his memo of appeal at the expense of the State and with a simultaneous request to Legal Service Authority.
- (d) The papers of an appeal or revision shall be kept stitched together in a cover in the prescribed Form **(F.152)**.

2. Contents of memo of appeal-

- (1) The cause title of every memorandum of appeal shall contain -
 - (a) The designation of the Court;
 - (b) The name, age, description and address with police station of each appellant;
 - (c) The name, age, description and address with police station of each person who is proposed to be made the opposite party;
 - (d) The status (whether prosecution, complainant, applicant, accused or non-applicant etc.) of the parties in the Court of first instance, if any;
 - (e) Date of the impugned judgment/order; and details of conviction with reference to offence and sentence/acquittal with reference to offence;
 - (f) Case number in which such judgment / order was passed by the original Court along with FIR Number, name of Police Station and details of offence;
 - (g) Facts of the case in brief;
 - (h) Grounds, numbered serially;
 - (i) Relief prayed for;
 - (j) It shall be stated as to whether it is first or subsequent appeal against the impugned order. If subsequent, the particulars and result of earlier proceedings shall be disclosed;
 - (k) It shall also be stated as to whether there is any connected appeal(s) against same judgment/order is pending, if yes, the details if any; and
 - (l) It shall also be stated that the appellant(s) has not filed any revision petition before High Court.

- (2) A memorandum of appeal against conviction, except in cases where the sentence has been suspended by the Court below, shall contain a declaration to the effect that the convicted person is in custody or has surrendered after the conviction.
- (3) In cases, where the sentence has been suspended by the court passing the sentence, the factum of such suspension and its period shall be stated in the memorandum of appeal.
- (4) Every such memorandum of appeal shall be accompanied by a certified copy of the impugned judgment or order together with self-attested copy/ copies of other relevant record necessary for decision of the memorandum of appeal, with affidavit certified to be correct by the party supplying them or his advocate, as the case may be.

Provided, that Court may dispense with the requirement of filing certified copy of the judgment/ order.

3. Report by Sr. Munsarim/ Munsarim or Reader—

Every memorandum of appeal when received be examined at once by the proper officer, who shall endorse upon it a report—

- (i) Whether it is within limitation.
- (ii) Whether the appeal lies to the Court.
- (iii) Whether the Court fee paid is sufficient.
- (iv) Whether it is accompanied by requisite documents.

The proper officer in the Court of Sessions shall be either the Sr. Munsarim/ Munsarim or the Reader, as the Judge may direct. In every other Court, the Reader shall be the proper officer.

4. Requisition of Record-

In every such case, the record shall be obtained from record-room or court in which it is, by means of a requisition in the prescribed Form **(F.153)**.

5. Notice to appellant and the officer appointed under section 385(i) of Cr. P.C.- As soon as the date of hearing is fixed, the appellate courts shall cause notice thereof to be given to the appellant or his pleader. A notice of the date of hearing in the prescribed Form **(F.154)** shall also be given to the Public Prosecutor along with a copy of memorandum of appeal. The same procedure shall also be applicable in case or revision if the Court orders notice to be given.

Explanation- The expression 'Public Prosecutor' shall include Additional Public Prosecutor, Assistant Public Prosecutor and Special Public Prosecutor appointed by the Central or State Government, as the case may be.

6. Notice to appellant in Jail-

Where the appellant is in jail, a notice specifying time and place at which the appeal will be heard shall be sent in the prescribed Form **(F.154)** under a covering docket in the prescribed Form **(F.155)** by the appellate court directs to the Superintendent of the jail for the communication to the appellant and return with an endorsement that the appellant has been duly informed.

A copy thereof shall also be endorsed to Para Legal Volunteer working in the concerned jail through concerned Legal Service Authority.

7. Procedure when appeal decide u/s 385 (2)-

- (1) When an appellate court has sent for the record under section 385(2) of the Code it shall, after deciding the appeal send back the record along with a certified copy of the judgment or order in appeal.
- (2) Appeal dismissed- If the appeal is dismissed and the appellant in on bail, the Court which passed the original sentence, shall issue the necessary orders requiring the appellant to surrender, or in default of his surrendering, the necessary orders for his arrest and confinement in jail; provided that if the appellant who had been released on bail is present in Court when the appeal is dismissed, he may, by the order of the Court, be taken, into custody by the constable of the Court and sent to the Superintendent of the jail with a warrant to admit the accused to serve out the remainder of the sentence.
- (3) If the appellant is in jail and the appeal is rejected or dismissed, the appellate court shall also certify the judgment or order to the Officer-in-charge of the jail for communication to the appellant.
- (4) The above procedure shall also be followed in the case of an application for revision and in proceedings in Courts of Sessions u/s 122 of the Code.

8. Procedure when High Court rejects appeal or application-

When the appeal or application of a person on bail has been dismissed by the High Court, the Chief Judicial Magistrate shall report to the High Court that the order to surrender to bail has been carried out.

9. Procedure when sentence altered reversed or confirmed-

- (1) When the sentence under which the appellant is in confinement is reversed or modified, the appellate court shall issue a fresh warrant in conformity with its judgment or order, after including therein all appropriate endorsements on the original warrant, and shall send the new warrant direct to the Officer-in-charge of the jail in which the appellant in appeal was preferred to be attached to the original record.
The Presiding Officers submitting record to the appellate court shall see that the original warrant, if necessary, has been drawn and placed on record.
- (2) When a sentence is modified or reversed in appeal by the High Court, the warrant shall be signed and issued by the Court to which the appellate judgment or order is certified under section 388 of the Code. Provided that if it is shown that delay in the release of a prisoner would otherwise be cause, the warrant may be issued direct by the High Court and the face intimated to the Lower Court.
- (3) When the appellant has been admitted to bail pending the hearing of the appeal, the following special rules shall apply:-
 - (a) When a sentence is reversed on appeal, the appellate court shall return the original warrant with a copy of its order to the Court by which the appellant was admitted to bail, with a direction to discharge him.
 - (b) When a sentence is modified on appeal, the appellate court shall prepare a fresh warrant in conformity with its order, and shall send it with the original warrant and with a copy of its order to the Court by which the appellant was admitted to bail, with directions to take measures to secure his surrender and recommitment to

- jail on the modified warrant, if under the latter, the appellant remains liable to imprisonment.
- (c) When a sentence is confirmed on appeal, the appellate court shall return the original warrant with a copy of its order to the Court by which the appellant was admitted to bail, with directions as in sub-rule (b) of the rule.
 - (d) When the appellant surrenders to bail in the appellate court, the Court shall:-
 - (i) If the sentence is reversed on appeal, discharge him;
 - (ii) If the sentence is modified or confirmed on appeal and the appellate court is not the High Court of judicature, send him in custody with the modified or the original warrant, as the case may be, to the Officer-in-charge of the jail of the district in which the appeal has been heard, with direction to recommit him to jail; and
 - (iii) If the sentence is modified or confirmed on appeal and the appellate court is the High Court of Judicature, send him to the Superintendent of the jail at Jodhpur or Jaipur, as the case may be, in the manner directed in clause (ii).
- (4) It is the duty of the Court to which the appellant surrenders, in view of the provisions of section 389 (4) of the Code, to endorse on the warrant, the date of his release on bail and of his subsequent surrender.

The original Court or the Trial Court from whose order the appeal was preferred must prepare and place on record the warrant under section 418 (1) of the Code even if the sentence is suspended by it or by the appellate court. The appellate court shall send that warrant along with the warrant of its own to be Officer-in-charge of the jail in which the appellant is confined; The original warrant shall mention the following particulars also:-

- (i) Date of arrest of the convict by the police.
- (ii) Date of remand to the judicial custody.
- (iii) Date of release on bail.
- (iv) Whether at present in custody.
- (v) Number of days to be set off against sentence of imprisonment in view of section 428 of the Code. The warrant prepared and sent by the appellate court to the Officer-in-charge of the jail in which the appellant is confined or is to be confined must also mention all relevant information required for the purpose of set off under section 428 of the Code.

10. Order suspending sentence to be certified-

When a Court orders that execution of a sentence be suspended, it shall certify its order to the Court by which sentence was passed, and if the appellant or applicant is in jail, to the Officer-in-charge of the jail for communication to the appellant or applicant, and for report that the necessary action has been taken.

11. Date of appearance of parties in remanded appeal-

When a case is remanded by the appellate court or an order staying proceedings is discharged by such Court, a date for the appearance of the parties in the Trial Court shall be fixed by it at the time of passing the order and the appellate court shall see that record is transmitted to the Trial Court without any unnecessary delay.

ORDER 39

CRIMINAL REVISION

1. Presentation of Petition—

Every petition of revision shall be filed before such official appointed by the court or by the District Judge to receive such presentation.

- (a) If at the time of filing the petition of revision, petitioner is in jail, such petition of revision may be presented either to the Officer-in-charge of prison by the prisoner himself, or before such official appointed by the court or by the District Judge to receive such presentation by a pleader authorized by him by a pleader authorized by him. A memo or appearance or vakalatnama, if filed, shall be signed by the prisoner and forwarded by the officer-in-charge of prison under his signature after due attestation.
- (b) If such petition of revision is presented before Superintendent of the Jail, he shall send the petition for registration to the concerned court.
- (c) If it appears from the petition that the prisoner wishes to be represented by pleader, the court shall not proceed with the petition until seven days have elapsed, since the date of its receipt unless pleader appears earlier. If it appears that the prisoner has no sufficient means to engage a pleader the court shall assign a pleader for his petition at the expense of the State and with a simultaneous request to Legal Service Authority.
- (d) The papers of an appeal or revision shall be kept stitched together in a cover in the prescribed Form **(F.152)**.

2. Contents of Petition of revision-

- (1) The cause title of every petition of revision shall contain -
 - (a) The designation of the Court;
 - (b) The name, age, description and address with police station of each petitioner or applicant;
 - (c) The name, age, description and address with police station of each person who is proposed to be made the opposite party;
 - (d) The status (whether prosecution, complainant, applicant, accused or non-applicant etc.) of the parties in the Court of first instance, if any;
 - (e) Date of the impugned judgment/order; and details of conviction with reference to offence and sentence/acquittal with reference to offence;
 - (f) Case number in which such judgment / order was passed by the original Court along with FIR Number, name of Police Station and details of offence;
 - (g) Facts of the case in brief;
 - (h) Grounds, numbered serially;
 - (i) Relief prayed for;
 - (j) It shall be stated as to whether it is first or subsequent revision against the impugned order. If subsequent, the particulars and result of earlier proceedings shall be disclosed;

- (k) It shall also be stated as to whether there is any connected revision against same judgment/order is pending, if yes, the details if any; and
 - (l) It shall also be stated that the petitioner(s) has not filed any revision petition before High Court.
- (2) A petition of revision against conviction, except in cases where the sentence has been suspended by the Court below, shall contain a declaration to the effect that the convicted person is in custody or has surrendered after the conviction.
 - (3) In cases, where the sentence has been suspended by the court passing the sentence, the factum of such suspension and its period shall be stated in the petition of revision.
 - (4) Every such petition of revision shall be accompanied by a certified copy of the impugned judgment or order together with self-attested copy/ copies of other relevant record necessary for decision of the petition of revision, with affidavit certified to be correct by the party supplying them or his advocate, as the case may be.

Provided, that Court may dispense with the requirement of filling certified copy of the judgment/ order.

3. Report by Sr. Munsarim/ Munsarim or Reader—Every petition of revision when received at Centralized Filing Counter shall be examined at once by the proper officer, who shall endorse upon it a report—

- (i) Whether it is within limitation.
- (ii) Whether the revision lies to the Court.
- (iii) Whether the Court fee paid is sufficient.
- (iv) Whether it is accompanied by requisite documents.

The proper officer in the Court of Sessions shall be either the Sr. Munsarim/ Munsarim or the Reader, as the Judge may direct. In every other Court, the Reader shall be the proper officer.

4. Requisition of Record- No record shall be called from the Court in which original case is pending, however, record can be obtained, if already consigned to record room by means of a requisition in the prescribed Form **(F.153)**.

Provided, if in the opinion of the court, original record is essential for decision of the petition, in that case, record can be called at the time of hearing/ decision, and such record shall not be detained for more than fifteen days.

5. Notice for hearing.—

- (1) If the revision petition is admitted for hearing, court shall fix a date of hearing. As soon as the date of hearing is fixed, the Court shall cause notice thereof to be given to the petitioner or his pleader. A notice of the date of hearing in the prescribed Form **(F.154)** shall also be given to the Public Prosecutor or opposite party as the case may be, along with a copy of petition of revision.

Explanation.—The expression 'Public Prosecutor' shall include Additional Public Prosecutor, Assistant Public Prosecutor and

Special Public Prosecutor appointed by the Central or State Government, as the case may be.

- (2) Where the petitioner/ non-petitioner is in jail, a notice specifying time and place at which the petition will be heard shall be sent in the prescribed Form **(F.154)** under a covering docket in the prescribed Form **(F.155)** by the Court directing to the Officer-in-charge of prison for the communication to the petitioner/ non-petitioner and return with an endorsement that the petitioner/ non-petitioner has been duly informed.

A copy thereof shall also be endorsed to Para Legal Volunteer working in the concerned jail through concerned Legal Service Authority.

- (3) Where the Court has ordered notice to be issued, the petitioner shall supply as many legible typed/printed copies or photocopies of petition, application for grant of bail or for grant of any urgent relief pending revision with affidavit, certified to be correct by the party supplying them or his advocate, as there be parties to be served.
- (4) No notice shall be issued from the office/court until the required number of such copies have been supplied.
- (5) Nothing herein-before contained shall apply to revisions preferred by a person confined in prison and sent through the officer-in-charge of the jail. In such cases, requisite copies shall be furnished by the court.

6. Procedure when petition is decided.—

- (1) When a Court has requisitioned the record from court/ record room, it shall, after deciding the petition, send back the record along with a certified copy of the judgment or order in petition.
- (2) If the petitioner/ non-petitioner is in jail and the petition is rejected or dismissed, the Court shall also certify the judgment or order to the Officer-in charge of the jail for communication to the petitioner/ non-petitioner.

A copy thereof shall also be endorsed to Para Legal Volunteer working in the concerned jail through concerned Legal Service Authority.

7. Order suspending sentence to be certified.—When a Court orders that execution of a sentence be suspended, it shall certify its order to the Court by which sentence was passed, and, if the petitioner is in jail, to the Officer-in-charge of the jail for communication to the petitioner, and for report that the necessary action has been taken.

A copy thereof shall also be endorsed to Para Legal Volunteer working in the concerned jail, through concerned Legal Service Authority.

8. Date of appearance of parties in case of remand.—When a case is remanded by the Court or an order staying proceedings is discharged by such Court, a date for the appearance of the parties in the trial Court shall be fixed by it at the time of passing the order and the court shall see that record is transmitted to the trial Court without any unnecessary delay.

9. Procedure when sentence altered, reversed or confirmed.-

When the sentence under which the petitioner is in confinement is reversed or modified, the court shall issue a fresh warrant in conformity with its decision, after including therein all appropriate endorsements of the original warrant, and shall send the new warrant direct to the officer in charge of the jail in which the petitioner is confined. The original warrant shall at the same time be cancelled and transmitted by the revisional court to the court of which the finding, sentence or order revised was recorded or passed and the court to which such cancelled warrant is sent, shall attach it to the original record with necessary amendment in accordance therewith.

ORDER 40

PRESERVATION OF RECORD

1. Custody of the record-

Except as otherwise provided for in these Rules, no Judge or Magistrate shall part with the custody of the record of a case or any document therein.

2. Powers of Presiding Officers to examine records –

The Presiding Officer of a Court requiring to examine at his private residence a record of a case in his Court, may take charge of such record. The Official in whose custody such record may be, shall enter in a book to be kept in the Office for that purpose, a note describing the record so taken charge of by the Officer, the date when the Officer took charge of the record, and the date when the same was returned to the said Official.

3. Certificate before transmission of record-

Whenever a record is to be sent from a Court or record-room to another Court or record-room, the reader or record-keeper, as the case may be, shall carefully examine the record before transmitting it, and shall attach and sign at the foot of the general index, a certificate on prescribed Form **(F.156)**.

4. Examination on receipt and report if necessary-

When the record of a case is received in a Court from another Court or from the record-room, the reader shall at once report to the Court if the record is not in all respects in order and corresponding to the general index so as to prevent the possibility of doubt as to the office responsible for a missing document or for errors and deficiencies in the record.

If the record is received from any appellate court, the reader or record-keeper, as the case may be, shall carefully examine the record and shall lay it before the Court. Every copy of judgment or order received from any appellate court shall be placed on the general index and filed with the record.

5. Division of record into classes-

When a record is complete, and before it is sent to the record-room, the reader shall note thereon the Class to which it belongs and shall, in any doubtful case take the order of the Court. The Clerk-in-charge of the record shall in every record belonging to Class I or Class II, separate the papers belonging to Part A from those belonging to Part B, Part C and Part D and put the papers belonging to Part A in book-form and shall affix the front part of the wrapper on the outside of the book thus formed. He shall make up the papers belonging to other parts in book-form and attach the book so prepared to the Part A book.

6. When records are to be sent to record-room-

(1) The records of completed cases in the Courts shall be transmitted to the record-room not later than the last day of the month succeeding the month in which the case was disposed.

(2) Records received back from any appellate court and paper(s) received in a Court after a record has been sent to the record-room (e.g. orders summarily rejecting appeals, warrants

returned after execution etc.) shall be sent to the record-room at the earliest.

- (3) For the return of record of cases under appeal that have been sent for by courts of appeal, the Form prescribed **(F.157)** for transmission of record shall be used.
- (4) The records of completed cases in the courts of Executive Magistrates shall be transmitted to the record-room of the District Magistrate on such dates and in such manner as the District Magistrate may from time to time, by written order, prescribe.

7. List of records to be maintained-

- (1) Each bundle of completed records shall be accompanied by a list of the records, it contains. The Clerk-in-charge of the records shall prepare the list and shall enter the records therein in the order of the dates of decision. But, if the dates of decision of two or more cases to which the list relates are the same, they shall be entered in the order in which they stand in the Court's registers. The reader shall examine the list and when he has checked that every case ready to be sent to the record-room has been duly entered therein, he shall sign the list.
- (2) If a completed record is required for use in the Court in which it was completed, or if it has been requisitioned by another Court or if, for any other reason, a completed record is not sent to the record-room, that shall be sent to the record-keeper, in the monthly bundle, in place of every such record, a copy of the form of requisition under which it has been detained, or transmitted elsewhere; the record-keeper shall deal with this as an original requisition.
- (3) If police record and miscellaneous proceedings are not filed with the record of a regular case, then list shall also be prepared in Form **(F.159)** along with Form **(F.158)** and shall be placed on top of the records in the bundle. When the records have been examined, as provided in rule 8, and have been placed in their racks, the list shall be bound with previous lists of records in the record-room so as to form a register of decided cases.

The Reader shall make out an invoice in the prescribed Form **(F.160)** of all the records and other papers forming each consignment to the record-room. The invoice (but not the counterfoil or the whole book) shall be sent to the record keeper, who shall compare the number of records and papers entered therein with the number actually received and shall sign the invoice and return it to the Court. The Reader shall then attach it to its counterfoil in book.

8. Record to be kept in a rack-

Until the records and papers received in the record-room are examined by the record-keeper as provided in rule 8, they shall be kept in a rack set apart for the purpose.

9. Examination by the Record-Keeper-

After the records and papers have been received, the record-keeper shall examine each record at the earliest and satisfy himself:-

- (1) that every record is properly entered in the list of the bundle to which it belongs, and that it has been properly classified;

- (2) that the papers in the record correspond with those entered in the general index;
- (3) that the papers in the record bear no erasures or interlineations but those noted in the general index;
- (4) that the papers bear the stamps entered in the general index;
- (5) that the stamps have been duly cancelled and punched;
- (6) that on each paper the number and aggregate value of the stamps on it have been recorded;
- (7) that all orders have been duly signed;
- (8) that the provisions relating to the realization of fines have been properly complied with.

If the record be found in order, the record-keeper shall enter and sign below the certificate signed by the Reader a certificate to the following effect:-

" Record examined and found correct."

If a list be found incorrect or a record found defective in any respect, record-keeper shall submit it with a report for the orders of the Officer-in-charge of the record-room or of the Sessions Judge or of the District Magistrate, as the case may be. While making an examination the record-keeper shall punch a hole in each stamp distinct from the hole previously punched. The punching shall invariably be made in the middle of that part of the label on which its value is printed but shall not remove so much of the stamp as to render it impossible or difficult to ascertain its value or nature.

10. Subsequent papers to be filed-

A paper to be filed with a record already in the record-room (e.g. an order summarily rejecting an appeal, a warrant returned after execution etc.) shall be sent after its stamps, if any, duly punched to the record-room, as soon as may be, after its receipt and requisite entries in the prescribed registers. The record-keeper shall, on receipt of such paper, enter it in the general index of the relevant record. An entry shall be made below the certificate signed by the Reader or if necessary, on a fresh sheet of the general index.

11. Prohibition against unauthorized removal of records-

Unless otherwise provided, no judicial record or its part shall be taken out of Court building or premises by any ministerial officer on any pretext whatsoever. A breach of this rule will render the officer liable to dismissal.

ORDER 41

REQUISITION FOR RECORDS

1. Requisition for record-

When under any law or any rule having the force of law a Court sends for the record of a Criminal case, whether pending or decided, the Court shall send a requisition in the prescribed Form **(F.153)** and the cost of transmission shall ordinarily be borne by the Government.

2. Requisition by party through Court-

(a) For the requisition of a record or portion of a record on behalf of a party to a case from any Civil Revenue or Criminal Court, a written application shall be made stating the purpose for which the record is required. A separate application shall be made for each record or part of a record required and each such application shall bear a court fee label as provided by the Rajasthan Court Fees and Suits Valuation Act, 1961.

(b) Whenever such application is made by any party to the court, such application shall not be refused except for the reasons to be recorded in writing.

3. Transmission of Record-

When an order for transmission of a record has been made, the Reader or Record-keeper shall send the record under the prescribed Form **(F.157)** for transmission after filling up the appropriate columns of the form. The form of the requisition received be kept in the place from which the record was taken.

4. Register of requisition and return-

The clerk of the concerned section in each Court and the Record-keeper in the record-room shall keep a register of "Requisitions for record and return thereof" in the prescribed form **(Register No.249)**. An entry regarding requisition and return shall be made accordingly in the register when the record is transmitted or returned.

5. Record to be promptly returned-

When the record is no longer required, it shall be promptly returned. The appropriate columns of the form of transmission shall be filled up and the form shall be returned with record.

6. Examination of Record on receipt-

On receipt of the record, the Reader or the Record-keeper shall make an examination as prescribed in these rules, after making relevant entries in respective columns of the Register of Requisitions and shall file the requisition and the form for transmission with the record, and restore the record to its appropriate place.

7. Scrutiny of Register-

Once in every quarter, the register of requisition shall be laid before the Court or the Officer-in-charge of the record-room, as the case may

be, for orders as to records which were issued more than three months back and have not been returned.

8. Mode of transmission of record-

The following instruction shall be observed for the transmission of records from one Court to another:-

- (i) Records shall be securely packed (in wax-cloth, when necessary), and shall subject to the proviso hereinafter contained, be transmitted by post or rail. Each parcel shall contain the papers connected with one case only. Postage shall, except when the requisition otherwise states, be prepaid by service postage stamps :

Provided that if the record to be transmitted to a Court situated in the same place as the Court transmitting it, it shall be sent by a Government messenger.

- (ii) An acknowledgment shall invariably be required from the Court to which a parcel containing a record has been dispatched, and in the event of none being received within a reasonable time, inquiry shall be made to ascertain the cause.
- (iii) Records may be sent by parcel post or by any other convenient mode including messenger.
- (iv) Information of transmission and receipt thereof shall also be shared on email.

ORDER 42

DESTRUCTION OF RECORDS

1. Classification of records-

Records shall be classified into two categories as follows:-

Class I

Every case in which the offence charged is punishable with imprisonment exceeding two years, with or without fine and cases not otherwise provided for in these Rules including cases under section 108 of the Code.

Class II

- (i) Every complaint dismissed under section 203 of the Code.
- (ii) Every case compounded under the law.
- (iii) Every application dismissed and every miscellaneous report of proceedings, when not filed as part of the record of a regular case.
- (iv) Every case in which an accused person is discharged under the provisions of section 249 of the Code.
- (v) Every case under section 133 of the Code.
- (vi) Every case in which an accused person is acquitted under sub-section (1) of section 256 of the Code or under section 257 of the Code.
- (vii) Every case in which the offence charged is punishable with fine or with imprisonment not exceeding two years, with or without fine.
- (viii) Every Appeal and Revision case.
- (ix) Every Criminal Miscellaneous case including transfer applications & memo of appeals.
- (x) Cases under Chapters VIII and IX of the Code except cases under section 108 of the Code:

Provided that a Court for reasons to be recorded in writing may order that any case or proceeding belonging to Class II be treated as belonging to Class I or vice-versa.

2. Destruction of papers-

- (1) Every paper of the record shall be preserved in Digital/ electronic form on Electronic Storage Media with the mechanism of retrieval as and when required in terms of the provisions of Information Technology Act, 2000 as amended time to time.
- (2) Any paper of the record can only be destroyed after preservation as detailed above.
- (3) Any paper of the record in physical form can be destroyed after six months of digitization of the record.
- (4) In cases in which original documents have been filed in a criminal record, the concerned court shall, before destroying the record on expiration of the period of retention, publish a notice on website of the court stating therein, the impending destruction of the record and calling upon all the concerned to take back the original document in question. If the document is not claimed, it shall be destroyed accordingly. Such notice shall also be pasted on conspicuous part of the court.

- (5) In foregoing provisions, any reference to the period for destruction/ preservation of the record shall be reckoned after digitization of the record as detailed above; and shall be reckoned from the 30th June or 31st December next ensuing after digitization of the record.
- (6) Period of destruction of records-
- (a) Permanent –
 - (i) Part A.
 - (ii) Record of evidence.
 - (iii) Commission with return thereof and deposition.
 - (iv) Report of Chemical Examiner and other reports mentioned in Section 292 and 293 of the Code.
 - (v) Exhibited documents admitted in evidence.
 - (vi) The record of a case in which an accused has absconded or is a lunatic or person has been ordered to pay maintenance, shall not be destroyed until it be provided to the satisfaction of the Chief Judicial Magistrate/ Chief Metropolitan Magistrate that such accused or other person is dead, or until a period of 50 years has elapsed since the order was passed.
 - (vii) If in a record warrant of sentence, if any, is not attached with the certificate as to the manner in which the sentence was executed, such record shall be laid before the court for further orders before destruction.
 - (b) All other paper of Part B, Part C and Part D of Class I record not included in Rule 7(a), shall be destroyed on the expiration of two years.
 - (c) The entire record in Class II except the record mentioned in Rule 7(a) i.e. permanent record shall be destroyed on the expiration of one year.

Provided that, Presiding Officer of the court may, at his discretion, direct the retention for a longer period or permanently of any paper which he may consider likely to be useful in the future.
 - (d) Transitory provision- Till digitization of the record, any paper of the record may be destroyed as under:-

The entire record in Class II shall be destroyed on the expiration of one year.

Part D in Class I shall be destroyed on the expiration of one year.

Part A, Part B and Part C in Class I shall be destroyed on the expiration of three years, except in cases hereinafter provided, reckoning from the 30th June or 31st December next ensuing after the order of disposing of the case.

In the following cases Part A, Part B and Part C of Class I shall be destroyed on the expiration of:-

 - (a) Ten years in a case under section 108 of the Code and in a case tried by the Court of Sessions or by a Chief Judicial Magistrate, except that-
 - (i) in every case the judgment or final order of the Sessions Judge or the Chief Judicial Magistrate shall be retained for 50 years; and
 - (ii) in a case in which conviction was held under Chapter VI of the Indian Penal Code, the whole of Part A shall be retained for 50 years.

Proviso- In cases tried by Sessions Judge in which punishment awarded is more than seven years imprisonment, special order of the Sessions Judge shall be taken in each case to destroy Part-A of Class I after 10 years.

- (b) Five years in other cases; except that in every case the judgment or final order of the Sessions Judge or Magistrate in cases in which the offence proved is an offence punishable under Chapter XII or Chapter XVII of the Indian Penal Code with imprisonment of either description for a term of three years and upwards shall be retained for 50 years; reckoning from the 31st December next ensuing after the order disposing of the case:

Provided always that-

- (i) if the warrant with the certificate as to the manner in which the sentence has been executed has not been filed with the record before the expiration of the period above mentioned, the record shall be laid before the court for further orders;
- (ii) a Sessions Judge or a Chief Judicial Magistrate or the District Magistrate, for reasons to be recorded in writing may direct that any record or part thereof be retained permanently;
- (iii) the record of a case in which an accused has absconded or is a lunatic or person has been ordered to pay maintenance, shall not be destroyed until it be proved to the satisfaction of the Chief Judicial Magistrate that such accused or other person is dead, or until a period of 50 years has elapsed since the order was passed;
- (iv) the records of cases of non-criminal lunatic shall be destroyed upon the expiry of 3 years from the date of discharge from hospital or upon death of such person.

3. Disposal of records liable to be destroyed-

As soon as may be, after the 1st January and 1st July of each year, the records liable to be destroyed under the preceding rule shall be examined, and if their time for weeding has expired, shall be disposed of as follows:-

- (1) Confidential papers and stamps and court-fees labels shall be destroyed by shredding to pieces so as to render it unlikely that all such documents may be used again, and burnt in the presence of the Record-keeper. Notes and orders on administrative side must be treated as confidential papers.
- (2) All original documents and papers forming parts of records as also certified copies of such documents and papers shall be torn across and then sold as waste-paper to the best advantage.
- (3) Papers not covered by Clauses (1) and (2) and the accumulation of waste-paper baskets shall be sold as waste-paper without being torn at all.
The sale-proceeds of the paper shall be credited to Government.

As each record is weeded, a note of the fact shall be made in the list with it was received in the record-room.

4. Retention of registers, books, etc.-

The following books shall be retained for the periods specified against them, computed from the date of latest entries:—

S. No	Description of book or register	Period
1	Register of fines, compensation, deposits penalties and fees	5 years
2	Register of requisitions of records	3 years
3	Registers of records requisitioned and returned	3 years
4	Inspection Register	1 years
5	Register of copies	1 years
6	Stock book of printed forms	3 years
7	General register of correspondence file	6 years
8	Register of letters received	3 years
9	Register of letters issued	3 years
10	Register of general letters and circulars	30 years
11	Register of complaints	6 years
12	Register of Regular Criminal Cases	50 years
13	Register of Miscellaneous Criminal Cases	5 years
14	Register of Regular Criminal Cases disposed of	2 years
15	Register of Malkhana Articles	15 years
16	Register of Police Reports of offences	6 years
17	Register of Miscellaneous Police Reports	2 years
18	Register of cases transferred under section 192 of the Code of Criminal Procedure, 1973	3 years
19	Register of Criminal appeal	3 years
20	Register of Criminal appeal disposed of	2 years
21	Register of Criminal Revision	2 years
22	Register of Criminal Revisions disposed of	2 years
23	Register of Sessions Cases	50 years
24	Register of cases referred under section 122 of the Code	5 years
25	Register of Sessions Cases disposed of	3 years
26	Register of Closed Registers	Permanently
27	Register of witnesses	3 years
28	Register of Valuable Properties	15 years

Provided that, aforesaid Registers can be destroyed after one year of digitization of record reckoning from 31st December next ensuing after the digitization.

Provided, further that the data shall be preserved in digital/ electronic form on electronic storage media with the mechanism of retrieval as and when required in terms of the provisions of Information Technology Act, 2000 as amended time to time.

5. Return of certain papers for more than one year –

The following papers shall be retained for the periods specified against them, computed from the 31st December of the year to which they relate-

S. No.	Description of Papers	Period of retention
1	Periodical statements and returns other than annual reports or returns and office copies of them and correspondence regarding them	3 years
2	Copies of order forwarded under section 167 of the Code if not filed with the record of a case	3 years
3	Proceedings in respect of an absconding person under sections 77, 78, 80, 82, 83, 84 and 85 of the Code, if not filed with the record of a case	3 years
4	Invoice of consignments to the record-room	3 Years
5	Papers relating to contingent charges	3 Years
6	Punishment of officials, after final orders have been earned out and entry made in service book	3 years
7	Certificate of Transfer of charge of office	5 Years
8	Annual reports and returns	20 Years

Provided that, aforesaid papers can be destroyed after One year of digitization reckoning from 31st December next ensuing digitization.

Provided further, that the data shall be preserved in digital/ electronic form on electronic storage media with the mechanism of retrieval as and when required in terms of the provisions of Information Technology Act, 2000 as amended time to time.

6. Retention of certain papers for a period of one year and three years –

- (1) The following papers shall be retained for one year; computed from the 31st December of the year in which they were written and in case of letters from the 31st December, of the year in which the correspondence was closed :-

S.No	Description of Papers
1	Applications for copies, if not filed with the records of the cases to which they relate and correspondence relating to them
2	Reminders
3	Correspondence relating to leave and transfers
4	Correspondence relating to the service or execution of criminal processes
5	Correspondence with other departments regarding criminal proceedings under special laws
6	Office copies of calendars of committed cases
7	Correspondence relating to questions of practice of procedure which is concluded by the publication of a rule or order of competent authority
8	Correspondence and applications regarding employment
9	Copies of judgments and statement of result of sessions trials (Chapter IV Rule 44)

- (2) The following papers shall be retained for three years, computed from the 31st December of the year in which they were written and in case of letters, from 31st December of the

year in which the correspondence was closed:-

S No	Description of Papers
1	Correspondence regarding books, furniture and repairs of Courts
2	Indents for forms, stationery or additional copies of circulars and correspondence relating thereto
3	Correspondence relating to salary, travelling allowance and contingent bills.

Provided that, aforesaid papers can be destroyed after six months of digitization reckoning from 31st December next ensuing after the digitization, provided that the data shall be preserved in digital/ electronic form on Electronic Storage Media with the mechanism of retrieval as and when required in terms of the provisions of Information Technology Act, 2000 as amended time to time.

7. Destruction of papers –

At the end of the periods specified for retention, the books and papers mentioned in Rules 4, 5 and 6 shall be destroyed in the manner prescribed in Rule 3.

Provided that, a Sessions Judge or Chief Judicial Magistrate or the District Magistrate, as the case may be, may at his discretion direct the retention for a longer period or permanently of any paper which he may consider likely to be useful in the future.

ORDER 43

REGISTERS

1. Notwithstanding otherwise provided in these rules, the concerned clerk in every criminal court shall regularly maintain the registers mentioned in Appendix-E.

ORDER 44

PERIODICAL RETURNS AND REPORTS

1. Statement to be prepared –

The statements prescribed in the following rules shall be prepared by every Criminal Court concerned. The statements of all the Courts of Judicial Magistrate, Chief Judicial Magistrates, Assistant Sessions Judges and Additional Sessions Judges in a Sessions Division shall be submitted to the Sessions Judge. The statements for the Courts of all the Executive Magistrates in the District shall be submitted to the District Magistrate.

The District Magistrate shall forward the statements for his district to the Sessions Judge on or before the date fixed for each statement and the Sessions Judge shall add thereto statistics of the Court of Sessions pertaining to the same district, and shall total the figures, and shall, forward them along with statements relating to the Court of Sessions to the Registrar of the High Court on or before the date fixed for each statement.

The statements for the Court of Sessions shall in every case be submitted to the High Court by the Sessions Judge of the Division.

2. Intimation if statement be blank-

When any return or statement required by these Rules to be submitted in blank, a report should be made in the prescribed Form (**Return No.25**), a blank copy of the return itself should not be sent.

3. Sessions statement-

- (1) A session statement in the prescribed form (**Return No.26**) shall be prepared by the Sessions Judge at the end of each quarter showing all sessions trials concluded or pending on 31st March, 30th June, 30th September and 31st December. It shall be certified by him to be a full and correct list of all cases disposed of during the quarter, as well as those pending at the close of the quarter.
- (2) Every Additional Sessions Judge shall send to the Sessions Judge of the Division by the 5th day of succeeding month the Return of Sessions Cases disposed of during the month with explanation for not disposed of, if any. The return shall be filed in prescribed form (**Return No.26**).
- (3) The Sessions Judge shall prepare the return for his own Court and along with all the other returns received in this connection by him, shall submit them to the High Court by the 10th of the month following the quarter to which it relates. He shall make suitable comments for the low disposal, whenever required.

4. Annual statements concerning witnesses-

Every criminal court by the 5th day of January of each year shall send a report in prescribed form (**Return No.27**) showing the number of witnesses (including complainants) examined and discharged without examination, the period of their detention and

the sum paid to them as diet and travelling expenses in the district to the District Judge. The District Judge shall prepare a consolidated statement including statement of court of District Judge in prescribed Form **(Return No.27)** and shall forward to the High Court on or before 15th February of every year.

5. Annual report from Sessions Judge –

Sessions Judge shall submit an annual report **(Return No.9)** together with statement showing the number of Judicial Officers posted in the Judgeship **(Return No.28)** in which he shall notice the main feature in the administration of criminal justice before himself and any other judge of the Court of the Sessions and the Chief Judicial Magistrate and the Judicial Magistrate the extent to which effect has been given in the Court of Sessions and in the Courts subordinate to him to the rules regarding records and the record-room, the effect of recent legislation and rules upon the working of the Criminal Court and other points connected with the administration of criminal justice, which may seem to him to be worthy of notice or record.

6. Judge and Magistrate to leave notes for annual report –

A Sessions Judge before leaving his division, and a District Magistrate before leaving his district on transfer or otherwise, towards the end of the year shall place on record for the information of his successor and for the purpose of the annual report a minute embodying all the points which he would have noticed in the annual report had he remained to the end of the year.

7. Annual Report of Executive Magistrates on Criminal Administration-

Every District Magistrate shall submit to District Judge an annual report **(Return No.29)**, in which he shall notice the main feature in the administration of criminal justice in his district during the preceding year, the quality and quantity of work performed by the Executive Magistrates, the method of disposal of cases by subordinate Executive Magistrates, the extent to which effect has been given to the rules regarding records and the record-room, the effect of recent legislation and rules, if any, on the working of the Executive Court and other points connected with the working of Executive Courts, which may seem to him to be worthy of notice or record. After receiving such report, the Sessions Judge shall forward it to the Registrar General of the High Court with necessary remarks which the Sessions Judge shall deem it necessary to record.

ORDER 45

OATH COMMISSIONERS

1. Appointment of Oath Commissioners -

Every Sessions Judge shall draw a panel of Oath Commissioners to be appointed under section 297(1)(b) of the Code. The panel shall be valid for one year. The number of Advocates to be included in the panel shall depend on the number of Criminal Courts in the Judgeship which shall ordinarily be three for one Court. The Sessions Judge shall invariably appoint Oath Commissioners from the panel so drawn before 15th January of each calendar year under intimation to the High Court.

2. Fee of Oath Commissioners –

Oath Commissioner appointed by the Sessions Judge under the provisions of Section 297 (1)(b) of Code shall charge a fee of Rs. 10/- for each affidavit. Every Oath Commissioner shall maintain a register in the prescribed form (**Register No.270**) regularly and correctly and shall place it for inspection, before the Sessions Judge quarterly.

PART-IV MISCELLANEOUS

ORDER 46

FEES OF LEGAL PRACTITIONER

1. Taxation in decree of Legal Practitioner's fees and the certificate for such fees.—

- (1) In drawing up a decree or order no fee to any legal practitioner not appearing for the Government as a party shall be allowed on taxation between party and party or shall be included in any decree or order, unless the Munsarim, or on application to the Judge, the Judge is satisfied that the fee was paid to such legal practitioner before the conclusion of arguments in the suit, appeal or case followed by the delivery of the judgment or by the making of the order by which costs become payable and unless at or before such time there shall have been delivered to the Munsarim a certificate signed by the legal practitioner certifying the amount of the fee or fees actually paid to him for his own exclusive use and benefit by or on behalf of his client:

Provided that in any case the Presiding Officer may, for valid reasons to be recorded by him, accept a certificate for fees filed after the time mentioned above.

- (2) The certificate above mentioned, if possible shall be in the following form:—

"In the Court of the in the Case
Between and"

For the purpose of having my fee allowed on taxations as against _____, I hereby certify that in the above case the following, fees were paid to me as my fee as well as that of on the dates and by the person specified below and that such fees were paid before the conclusion of arguments in the suit, application or other proceedings and that no portion thereof has been agreed to be returned or remitted by me or by any one on my behalf or on behalf of who was associated with me in the case.

Date of Payment Amount paid. Name of the person who actually made the payment. Name of the person on whose behalf the payment was made Remarks.

Date _____

Signature of the Counsel

Filed on the day.....of 20.....

- (3) Nothing in this rule shall be deemed to authorize the allowance between party and party of any fees in excess of those allowed by rule.

2. Conditions governing taxation of lawyer's fee.—

Rules 4 to 17 inclusive shall, subject to rule 1, regulate the amount of legal practitioner's fees to be taxed as costs under a decree or order of a Court in favour of any party to a suit, appeal, or other proceeding. These rules shall also regulate the amount of fees to be taxed in favour of or against the Government where costs are awarded by the Court in cases, under Rajasthan Court Fees and Suit Valuation Act,

1961, and the Stamp Act, 1899, as adapted to Rajasthan in which the Government are not a party :

Provided that the fee received by a legal practitioner from a Joint Hindu Family of which he is a member for appearance in a case shall not be certified by him, nor shall it be taxed as costs in the decree.

3. Right to handover briefs.—

A legal practitioner when unable personally to attend to a case in which he is briefed may hand over the brief to another legal practitioner without the latter filing a vakalatnama and the fees, to whomsoever, paid, shall, if duly certified, be taxable costs.

4. Fees allowed in contested cases.—

In suits, or in appeal from original or appellate decrees in suits for money, effects or other personal property or for land or other immovable property of any description when such suits or appeals are decided on the merits after contest:—

- (1) if the amount or value of the claim does not exceed Rs. 5,000/- 10 per cent;
- (2) if the amount or value exceeds Rs. 5,000/- and does not exceed Rs. 20,000/- on Rs. 5,000/- as above, and on the remainder 5 per cent;
- (3) if the amount or value exceeds Rs. 20,000/- and does not exceed Rs. 50,000/- on Rs. 20,000/- as above and on the remainder 2 per cent;
- (4) if the amount or value exceeds Rs. 50,000/- on Rs. 50,000/- as above and on any amount in excess thereof at 1 per cent.

Cases under the Land Acquisition Act and contested cases under the Probated and Administration Act shall be treated as regular suits or appeals, governed by the above scale of fees:

(5) In a reference to a civil court under the Rajasthan Land Acquisition Act, 1953, fees shall be calculated on the amount decreed in excess of the amount allowed by the Collector.

In suits for money, effects or other personal property, the minimum fee to be allowed on taxation shall be Rs. 75/-⁵⁷ and in other suits Rs. 125/-⁵⁸.

Provided that in no case fee allowed should be less than the court fees levied.

5. Fees in ex-parte or similar cases—

When such suits or appeals are decided ex-parte, on admission or compromised, withdrawn or dismissed for default, or when an appeal is rejected under Order XLI Rule 10 of the Code.—

- (1) if the amount or value of the claim does not exceed Rs. 5,000/- not exceeding 5 per cent;
- (2) if the amount or value exceeds Rs. 5,000/- and does not exceed Rs. 20,000/-, on Rs. 5,000/- as above, and on the remainder not exceeding 2-1/2 per cent;
- (3) if the amount or value exceeds Rs. 20,000/- and does not exceed Rs. 50,000/- on Rs. 20,000/- as above, and on the remainder not exceeding 1 per cent;
- (4) if the amount or value exceeds Rs. 50,000/- on Rs. 50,000/- as above, and on any amount in excess thereof at the rate of 1/2 per cent subject to maximum fee of Rs. 10000/- :

Provided that in an uncontested reference to a civil court under the Rajasthan Land Acquisition Act, 1953, the scale of fee shall be one half of that allowed in a contested reference, calculated on the amount decreed in excess of the amount allowed by the Collector:

57. Substituted vide Notification No. 01/S.R.O./2020 dt. 26.02.2020 Pub. in Raj.Gaz.Ext.Pt-I (b)dt.27.02.2020

58. Substituted vide Notification No. 01/S.R.O./2020 dt. 26.02.2020 Pub. in Raj.Gaz.Ext.Pt-I (b)dt.27.02.2020

Provided further that in suit, or appeals, compromised or withdrawn, a court may, having regard to the stage at which the compromise or the petition of withdrawal is filed, award the full fee as prescribed in Rule 4 supra.

6. Fees in certain application.—

(1) In application under section 9 of the Indian Arbitration Act, 1996 (26 of 1996), fee shall be computed as follows-

Sum in Dispute	Model Fee
Upto Rs.5,00,000	Rs.2250 ⁵⁹
Above Rs.5,00,000 and upto Rs.20,00,000	Rs.5,000 ⁶⁰
Above Rs.20,00,000 and upto Rs.1,00,00,000	Rs.10,000 ⁶¹
Above Rs.1,00,00,000 and upto Rs.10,00,00,000	Rs.15,000 ⁶²
Above Rs.10,00,00,000 and upto Rs.20,00,00,000	Rs.20,000 ⁶³
Above Rs.20,00,00,000	Rs.25,000 ⁶⁴

(2) In application under section 34 of the Indian Arbitration Act, 1996 (26 of 1996), fee shall be half of the model fee prescribed in the Schedule IV of the Indian Arbitration Act, 1996 as amended time to time.

7. Fees in inquiries into pauperism.—

In an inquiry into the means of indigent person under Order XXXIII and XLIV of the Code of Civil Procedure, the fee payable to a Government pleader who has opposed an application for leave to sue as a pauper, or has applied for the dispaupering of the plaintiff shall be as a pauper, twenty percent on the amount of the Court-fee that would be payable on the plaint if the suit was not brought by a person alleging pauperism;

Provided that no fee in excess of Rs. 150/-⁶⁵ shall be payable under this rule.

A Government pleader who appears in the proceeding for the execution of a decree without having appeared in Court in the proceedings prior to decree, is entitled to the fee prescribed in the first part of this rule.

8. Fees in certain appeals and in Miscellaneous cases.—

In Miscellaneous Judicial cases and in appeals, if any from orders passed therein:—

- (i) if the amount or value of the claim does not exceed Rs. 5,000/- 2-1/2 per cent;
- (ii) if the amount of value of the claim exceeds Rs. 5,000/- and does not exceed Rs. 20,000/- on 5,000/- as above, and on the remainder 1-1/4 per cent;
- (iii) if the amount or value exceeds Rs. 20,000/- and does not exceed Rs. 50,000/- on Rs. 20,000/- as above, and on the remainder 1/2 per cent;
- (iii) if the amount or value exceeds Rs. 50,000/- on Rs. 50,000/- as above and on any amount in excess thereof at 1/4 per cent.

59. Substituted vide Notification No. 01/S.R.O./2020 dt. 26.02.2020 Pub. in Raj.Gaz.Ext.Pt-I (b)dt.27.02.2020
 60. Substituted vide Notification No. 01/S.R.O./2020 dt. 26.02.2020 Pub. in Raj.Gaz.Ext.Pt-I (b)dt.27.02.2020
 61. Substituted vide Notification No. 01/S.R.O./2020 dt. 26.02.2020 Pub. in Raj.Gaz.Ext.Pt-I (b)dt.27.02.2020
 62. Substituted vide Notification No. 01/S.R.O./2020 dt. 26.02.2020 Pub. in Raj.Gaz.Ext.Pt-I (b)dt.27.02.2020
 63. Substituted vide Notification No. 01/S.R.O./2020 dt. 26.02.2020 Pub. in Raj.Gaz.Ext.Pt-I (b)dt.27.02.2020
 64. Substituted vide Notification No. 01/S.R.O./2020 dt. 26.02.2020 Pub. in Raj.Gaz.Ext.Pt-I (b)dt.27.02.2020
 65. Substituted vide Notification No. 01/S.R.O./2020 dt. 26.02.2020 Pub. in Raj.Gaz.Ext.Pt-I (b)dt.27.02.2020

- 9. More fees taxable in special cases.—**
In addition to the fee awarded under the preceding rules, the Court may in any case in which it considers that the employment of more than one legal practitioner was necessary and in which both a senior and a junior practitioner have been employed, award to the junior a fee not exceeding one third of the amount allowable under the preceding rule.
- 10. Explanation of amount of claim.—**
The words "the amount or value of the claims" in rules 4, 5, 6 and 8 mean the value for purposes of jurisdiction as set forth in the plaint, application or memorandum of appeal.
- 11. Fractions of rupee in amount of claim not allowed for calculating fees.—**
Fractions of a rupee in the amount or value of a claim shall be rejected in calculating the fee payable thereupon.
- 12. Court's discretion in taxing fees.—**
Notwithstanding the provisions of rules 4, 5, 6, 7 and 8 a court may, in any case, for special reason to be recorded in the judgment award a higher or a lower fee than that therein prescribed.
- 13. Fees in cases not admitting of valuation.—**
In cases in which the subject matter of the claim does not admit of valuation, the court shall fix a reasonable fee, regard being had to the time occupied in the decision of the case and the nature of the question raised therein.
- 14. Fees in cases of common defence.—**
If several defendants who have a joint or common interests succeed upon a joint defence or upon separate defences substantially the same, more than one fees shall not be allowed unless the court shall otherwise order for a reason which shall be recorded in the judgment. 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 shall think fit.
- 15. Fees in cases of separate defence.—**
If several defendants who have separate interests, set up separate and distinct defences and succeed thereon a fee for one legal practitioner for each of the defendant who shall appear by a separate legal practitioner 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 in the manner hereinbefore prescribed.
- 16. Cost of stamp or Vakalatnama in above cases.—**
For each fee allowed under the two last preceding rules, the value of the stamp on one vakalatnama only shall be awarded as costs.
- 17. Taxing of scribing charges.—**
(1) In all decrees a fee equal to 1/4 of the amount of process fees realized under these rules, shall be entered as the fee

chargeable by one party against another for costs of drawing up summons or notices.

- (2) In all decree a sum calculated at the rate of not more than 10% on the taken fee of a lawyer of a party subject to a maximum of Rs. 1000/- and a minimum of Rs. 100/- shall be taxed as costs on account of the fees of lawyer's registered clerk if it is paid and certified.

ORDER 47

Lawyer's Clerks

- 1. Acts to be done by registered clerks.-**
The Court shall allow the registered clerks of lawyers practicing before them—

 - (1) to present applications signed by their masters for—
 - (a) copies,
 - (b) return of documents,
 - (c) repayment of deposits,
 - (d) inspection, and
 - (e) all applications of a routine nature.
 - (2) to take delivery of copies;
 - (3) to tender money ;
 - (4) to identify persons verifying affidavits before the Munsarim ;
 - (5) to take notes from the Memorandum Book of Dates.

- 2. Names of the clerks to be registered with the Presiding Officers of Courts.—**
All practicing lawyers who wish their clerks to do the above acts must register them with the Presiding Officer of the Court giving their full names, parentage, caste and address. These will be entered in a register (**Register No.271**) to be maintained by the Court.

- 3. In case of several Courts, the clerks to be registered in the senior most Court.—**
When several Civil Courts are located at the same place, the clerk need only be registered in the senior most court whose register shall be circulated to all the subordinate civil courts every quarter for their information.

- 4. Changes in the registered clerk to be duly notified.—**
All changes in their registered clerk must be duly notified by practising lawyers. No unregistered clerk will be allowed to act on behalf of his master.
All changes duly notified will be entered in the register of clerks.

- 5. Powers of the District Judge or the Presiding Officer of a Court.—**
The District Judge (or the Presiding Officer of any other Court, subject to the control of the District Judge) may remove from the register, the name of any clerk guilty of any misconduct such as to unfit him for the exercise of such duties, or convicted of any offence involving moral turpitude.

- 6. Clerks not to inspect records.—**
Clerks will not be allowed to inspect records.

- 7. Restrictions as to the persons who may be employed as clerks.—**
No restriction of any sort can be placed on members of the Bar as to the persons whom they may employ as Clerks, but the District Judge (or the Presiding Officer of any other Court, subject to the control of the District Judge), may in the exercise of his discretion refuse to register a person whose name has once been struck off for misconduct or who has been convicted of any offence involving moral turpitude.

ORDER 48

Residuary

- 1. Report of casualty among judicial officers.—**
Senior-most judicial officers shall report to the High Court, without delay, any casualty that may occur among judicial officer(s).
- 2. Prohibition against becoming Arbitrator.—**
No judicial officer or ministerial official of a Court shall accept the office of arbitrator in any civil action without prior permission of the High Court in the case of a Judge, and of the District Judge in the case of a ministerial official. In any application for such permission the circumstances of the case and the names of the parties shall be stated, and the special reasons which may have led the officer to entertain a request for his services as an arbitrator shall be specified.
- 3. Obligations of Public Servant.—**
Every District Judge shall, so far as possible, check any departure by any subordinate judicial officer from the rules as to public servants issued by the Government from time to time.
- 4. Permission to leave district.—**
Subject to any general instructions by the High Court no District and Sessions Judge shall leave his district without the prior permission of the High Court.
- 5. Permission to subordinate officers to leave district.—**
Subject to any general instructions from the High Court, no Presiding Officer of any court other than District Judge shall leave the headquarter without the prior permission of the District Judge. Any breach of this rule shall be reported to the High Court by the District Judge.
- 6. Channel of correspondence for judicial officers.—**
Every communication made to the High Court by a judicial officer under the administrative control of the District Judge, whether it be an application regarding leave, transfer, promotion or any other matter, shall be made through the District Judge and not otherwise.
- 7. Information about casual leave of transferred officer.—**
When a Judicial Judge is transferred from the jurisdiction of one District Judge to the jurisdiction of another District Judge, the District Judge from whose jurisdiction he is transferred shall transmit to the Judge of the district to which he is transferred a copy of the register (**Return No.19**) for the then calendar year, so far as it relates to the casual leave taken by such officer. The District Judge to whose jurisdiction he is transferred shall cause such extract to be copied into his register of casual leave.
- 8. Annual Examination of safes.—**
Every District Judge shall examine annually all safes kept in his office and offices subordinate to him.
Where duplicate keys of a safe exists shall note whether one of such duplicate keys is made over to the Treasury officer for custody. He shall also note whether the safes are in good and sound condition.

9. Custody of duplicate keys of safes.—

Where duplicate keys of a safe exist, the duplicate key or keys shall be sent to the nearest Treasury Office for safe custody. The key before being sent to Treasury should have a strong cloth label and be inscribed with particulars showing of which safe it is the key. When the key of a particular safe is missing, the District Judge will send for the duplicate kept in the Treasury and make immediate report of loss to the High Court with particulars available regarding the loss.

10. Disposal of weeded documents and papers-

All weeded documents and papers shall be disposed of as follows :—

- (1) Confidential papers including notes and orders on administrative matters shall be torn into very small pieces, thoroughly mixed to prevent the possibility of re-assembly under the personal supervision of a responsible officer, and thereafter sold as waste paper. Stamps and court fee labels should, however, be torn to pieces and burnt in the presence of the Record-keeper.
- (2) All the original documents and papers forming parts of records as also certified copies of such documents and papers shall be torn across and then sold as waste paper to the best advantage.
- (3) Papers not covered by clauses (1) and (2) and the accumulation of waste paper baskets shall be sold as waste paper without being torn at all.

11. Rules relating to buildings—

- (1) Application for new building and additions or alterations to existing buildings shall not be made to the Department of Public Works, except through the High Court.
- (2) When petty repairs have become necessary in any court house by reason of heavy rain or other cause, the Presiding Officer of the court shall send immediately of such necessity to the District Judge.

12. Gratification prohibited (Notice)—

A notice in English and Hindi in the prescribed form (**F.161**) prohibiting the practice of soliciting, giving or receiving gratifications in connection with cases shall under the signatures of the Presiding Officer of each court be hung up on a board conspicuously in every court and office room, and the Munsarim or the Reader, as the case may be, shall be held responsible that the notices are preserved and kept in the proper places.

13. Application by clerical staff for leave—

An application for leave by a ministerial officer shall ordinarily be submitted to the Presiding Officer through the Munsarim or the Reader as the case may be, who shall hand it on with such report as may be necessary as to the leave available to the applicant and the arrangement for his work in his absence, etc.

14. Casual leave—

Application for casual leave by a District and Sessions Judge shall be submitted to the High Court.

Casual leave up to fifteen days in the year and not more than ten days at a time may be allowed to any judicial officer working in a district by the District Judge of that district :

Provided that casual leave to the Presiding Officer of a court located at the headquarters of the Additional District Judge in an

outlying district may be allowed as above by the Additional District Judge under intimation to the District Judge.

Sundays and gazetted holidays which immediately precedes a period of casual leave or come at the end, thereof may be prefixed or suffixed to such leave and those falling within the period of such leave will not be counted as part of the casual leave.

Presiding Officers may allow casual leave to their staff as above.

15. Stock book—

All articles of furniture and stock (excepting books and articles of stationery and other consumables) for which special registers are prescribed, shall be entered in the Stock Register (**Register No.272**) prescribed for the purpose.

16. Court seals—

(1) A court seal of approved dimensions as given in **Appendix-M** shall be kept by every court.

(2) Each court shall use its own seal which shall remain in the custody of Sr. Munsarim or the Reader as the case may be or under supervision of either of them as the case may be or with an official appointed for this purpose by the Presiding Officer. The seals of additional courts, when such courts cease to exist shall be kept in safe custody by the Sr. Munsarim of the District Court.

(3) The Sr. Munsarim or the Reader as the case may be, of every court shall be responsible for the safe custody and proper use of endorsement and other seals used in the various departments.

17. Officers' certificate of reading—

Every judicial officer on his first appointment shall within 3 months next of his posting certify to the District Judge that he has read these Rules.

18. Upkeep of the book of Rules—

The Sr. Munsarim or the Reader, as the case may be, of every court shall be responsible that the copy of these rules, in that court is kept up-to-date with all amendments noted in the appropriate places and all amendment slips correctly pasted and noted in the table of amendments at the end of this Volume.

BY ORDER

(SATISH KUMAR SHARMA)
REGISTRAR GENERAL