

**RULES OF THE HIGH COURT
OF
JUDICATURE FOR
RAJASTHAN,
1952**

(As amended upto 03 October, 2023)

RULES OF THE HIGH COURT OF JUDICATURE FOR RAJASTHAN, 1952		
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Rules of the High Court of Judicature for Rajasthan, 1952

PART I — GENERAL

CHAPTER I

Preliminary

1. Introductory -These Rules are made by the High Court of Judicature for Rajasthan in exercise of the powers conferred by section 46 of the Rajasthan High Court Ordinance, 1949, read with Article 225 of the Constitution of India and all other powers enabling it in that behalf.

2. Short title and commencement - ¹(1) These Rules may be cited as Rules of the High Court of Rajasthan, 1952, and shall come into force on the 1st day of October, 1952. They shall apply to proceedings and matters in the Rajasthan High Court commenced on, or subsequent to, that date and, so far as may be, also to proceedings and matters pending on that date .

²(2) An amendment to these Rules shall apply to proceedings and matters in the court commenced on or subsequent to the date of the amendment and so far as may be also to proceedings and matters pending on that date.

3. Interpretations - (1) In these Rules unless the context otherwise requires.—

"**Bench**" includes a Judge sitting alone;

"**Certified**" in relation to a copy means certified as provided in section 76 of the Indian Evidence Act, 1872;

"**Chief Justice**" includes, in his absence from the station, the Judge authorised to act on his behalf;

"**Code**" means the Code of Civil Procedure, 1908, and reference to an "Order" of the Code means reference to an Order of the First Schedule thereto;

"**Constitution**" means the Constitution of India;

"**Court**" and "**this Court**" mean the High Court of Judicature for Rajasthan;

"**Editor**" means a person appointed by the Chief Justice for scrutinising applications for translation and printing and for performing such other duties as are assigned to him under these Rules;

1 : Renumbered vide correction slip No. 77 published in Raj. Gaz. No. 17 Pt IV (C) Pg 288 25.7.57.

2 : Inserted vide correction slip No. 77 published in Raj. Gaz. No. 17 Pt IV (C) Pg 288 25.7.57.

"Judge" means a Judge of the Court;

"Judgment Writer" means an officer of the Court appointed to take down notes of judgments or orders pronounced by the Court and includes any person who may for the time being be authorised or directed by the Court to take down a judgment or an order pronounced by it;

"Notice" includes **"summons"**;

"Oath Commissioner" means a person appointed by the High Court under clause (b) of section 139 of the Code of Civil Procedure, 1908, and section 539 of the Code of Criminal Procedure, 1898, before whom affidavits and affirmations may be sworn and affirmed;

"Paper Book" means a collection of papers in original or their copies, transliterations or translations, as the case may be, with fly sheet, index, etc., made up in accordance with these Rules for the use of the Judge or Judges hearing the case;

"Prescribed" means prescribed by or under these Rules;

"Registered address" means the last address within the local limits of the territorial jurisdiction of the Court filed by a party in the Court or in the court below at which service of notice, summons or other process may be made on him;

"Registrar" includes—

(i) the Deputy Registrar at Jaipur in matters relating to the Jaipur Bench;

(ii) any other officer, with respect to such functions and duties of the Registrar as may have been assigned to such officer by the Chief Justice; and

(iii) in the absence of the Registrar, the Deputy Registrar or any other officer authorised to act on his behalf;

"Sealed" means sealed with the seal of the Court;

"Special Appeal" means an appeal from the decision of one Judge;

"State" means the State of Rajasthan;

"Supreme Court Rules" means the Supreme Court Rules, 1950;

³[deleted]

"Vacation Judge" means the senior-most Judge on duty during the long vacation at Jodhpur or Jaipur, as the case may be;

"Vakalatnama" means a document referred to in rule 4 of Order III of the Code appointing an Advocate to act for any person in this Court.

(2) The General Clauses Act, 1897, shall apply for the interpretation of these Rules as it applies for the interpretation of an Act of Parliament.

4. Reckoning of time - Where any particular number of days is prescribed by these Rules, the same shall be reckoned exclusively of the first day and inclusively of the last day, unless the last day shall happen to fall on a day on which the offices of the Court are closed, in which case the time shall be reckoned exclusively of that day also and of any succeeding day or days on which the offices of the Court continue to be closed.

5. Repeal - The existing Rules of Court and all other existing rules and orders dealing with matters covered by these Rules are hereby repealed:

Provided that nothing in this Rule shall affect anything done or to be done under such repealed rules or order or under any decree or order made in accordance with them prior to the date of commencement of these Rules.

6.- Issue of orders - Every judicial order, civil or criminal, issued from the office of the Court shall be in writing. No such order shall issue by telegram or telephone.

CHAPTER II

Powers and Duties of the Registrar

7. Functions, powers and duties of the Registrar - In addition to other functions, powers and duties of the Registrar under these Rules or other law, the following shall be his functions, powers and duties in relation to judicial proceedings, namely.—

(i) to dispose of all matters relating to the service of notices and other processes including the signing and issuing of warrants issued under the orders of the Court;

(ii) to allow the removal of formal defects in any memorandum of appeal or objection, petition or application;

(iii) to admit, issue necessary orders in, and dispose of uncontested applications made:—

Under Order XXII of the Code.—

(a) to bring on record the legal representatives of deceased parties, provided that no question of abatement or limitation arises; or

(b) to record the assignment, creation or devolution of any interest during the pendency of a case; or

Under Order XXXII of the Code-

for appointment or removal of a next friend or guardian ad litem, including fixation of fees and expenses of the next friend or guardian;

(iv) to deal with a motion for the admission of an application for leave to appeal to the Supreme Court in all cases in which an order for issue of notice may be made as a matter of course;

(v) to receive plaint, issue notice or fix date for the filing of written statement in a proceeding under the original ordinary or extraordinary jurisdiction of the Court, with liberty to adjourn any matter to the Judge seized of the case in Chambers;

(vi) to deal with matters relating to the payment of expenses and allowances to jurors and witnesses;

(vii) to direct that a security bond furnished under the provisions of rule 10 of Order XLI of the Code be sent to the court below for verification and report;

(viii) to send decrees and orders passed by the Court in the exercise of its original ordinary or extraordinary jurisdiction to other courts for execution;

(ix) under the Indian Succession Act, 1925—

(a) to receive an inventory of the property, credits and debts of the deceased to which the executor or Administrator is entitled, or an account of the estate showing the assets and the application or disposal thereof;

(b) to require an executor or administrator to exhibit an inventory or account under section 317;

(c) to grant extension of time for filing an inventory or account;

(d) to place on record an inventory or account when in order;

(e) to issue necessary notices in connection with matters mentioned in clauses (a) and (b), with liberty to adjourn any matter to the Bench concerned;

(x) to verify a compromise or record the statement on oath of any person, under the orders of the Court;

(xi) to extend the time for the submission of findings by the court below in a case in which issues have been referred for trial to that court under rule 25 of Order XLI of the Code;

(xii) to dispense with copies of judgments where such copies have been filed in at least one connected appeal or revision;

(xiii) to deal with all matters connected with the progress of a case subject to such orders as the court may pass from time to time including the receiving of affidavits and the granting of time for filing the same;

(xiv) to direct that any matter be laid before the Court; or

(xv) to do such other act as may be directed by the Court.

8. Return of memorandum of appeal for amendment - The Registrar may return for amendment any memorandum of appeal under rule 3 (1) of Order XLI of the Code. Where a memorandum of appeal has been so amended, he shall sign the amendment. The duties of the Registrar under this Rule shall be deemed to be of a quasi-judicial nature and his orders shall be subject to revision by the Court on application by the aggrieved party made within a period of two months or such further time as the Court may allow from the date of the order complained of.

9. Extension of time - Where the Registrar has refused to grant extension of time for any purpose under the foregoing Rules, the Court may, on a written application and for sufficient cause shown, grant the same.

Where a party does not take steps within the time allowed or where no one appears before the Registrar to ask for time to take necessary steps and the Registrar directs that the case be put up for orders before the Court, he shall be deemed to have refused to grant extension of time within the meaning of this Rule.

10. Additional powers — The Chief Justice may by order authorise the Registrar or any other officer.—

(a) To admit a memorandum of appeal from the decree or order of a Subordinate Civil Court and determine whether notice shall be issued at once to the other party or the appeal shall be put for hearing under rule 11 of Order XLI of the Code or otherwise before the Court;

(b) to dispose of a contested application for impleading the legal representative of a deceased party;

(c) to receive and dispose of an application for the withdrawal of an appeal or for a consent decree or order;

(d) to receive and dispose of an application for the return of a document; or

(e) to receive and dispose of an application under sub-rule (1) of rule 5 or rules 6, 8 or 10 of Order XLI of the Code.

⁴(f) to admit a petition of an appeal from the decision of a Subordinate Criminal Court other than an appeal under Section 417 or under section 420 of Criminal Procedure Code and determine whether notice under section 422 of Criminal Procedure Code shall be issued at once or the appeal shall be put for hearing and orders under section 421 of the Code.

⁵ (g) to dispose of applications under Rules 219, 223, 224, 225 and 243 and applications under Rule 68 for expediting for the hearing of a case.

⁶ [(h) to dispose of applications for striking out or adding party,

(i) to dispose of applications for enlargement or abridgement of time except where the time is fixed by the Court and except for condonation of delay in presentation of appeal.

(j) to dispose of all applications for directions regarding the preparation of record in an appeal, petition or other proceeding.

(k) to dispose of all matters relating to service of summons , notices and other process upon the parties including applications for substituted service.]

The Registrar or any other officer authorised under this Rule may adjourn any of the above matters to Court.

Where an officer other than the Registrar has been authorized under this Rule, the Registrar may exercise his function in his absence.

In the absence of the Registrar where he has been authorized under this Rule or where an officer other than the Registrar has been so authorized in the absence of both, a motion relating to any of the above matters may be made in Court and all such matters may be listed before the Court for disposal.

11.Exercise of powers by other officer - The Chief Justice may authorise the Deputy Registrar or any other officer to exercise such functions, powers and duties of the Registrar under these Rules as he may by order assign to him.

In the absence of such officer, the Registrar shall himself exercise such functions, powers and duties as may have been assigned to him by the Chief Justice under this Rule.

4 : Inserted vide correction slip No. 11 pub in Raj.Gaz. No. 110 dated 31.10.53 Pt II Pg 1104.

5 : Inserted vide correction slip No. 102 pub on 11.2.60.

6 : Inserted vide Amend. No. 1 pub in Raj.Gaz Pt 4-C dt. 2.9.76 Pg 279-80.

12.Exercise of Registrar's powers in his absence.- In the absence of the Registrar, the Deputy Registrar shall exercise the functions, powers and duties of the Registrar with the exception of the powers, if any, conferred under rule 10.

13. Court's jurisdiction unaffected.- The powers conferred upon and the functions and duties assigned to the Registrar, the Deputy Registrar or any other officer under these Rules, shall in no way affect the jurisdiction and powers of the Court.

CHAPTER III

⁷ (.....Omitted words) **Administrative Business of the Court**

⁸**[14. Administrative business relating to control over subordinate courts and to superintendence over courts and tribunals** - All administrative business of the Court relating to the control over subordinate courts vested in the Court under Article 235 of the Constitution or otherwise and to the superintendence over the courts and tribunals vested in the Court under Article 227 of the Constitution or otherwise shall be disposed of as provided hereinafter.

15. Matters on which all Judges shall be consulted - On the following matters all the Judges of the Court shall be consulted, namely :-

- (a) proposals as to legislation or changes in the law;
- (b) proposals as to changes in or the issue of new rules of Court;
- (c) proposals as the changes in or the issue of new rules for the guidance of subordinate courts;
- (d) appointment, promotion and seniority of Judicial Officers;
- (e) withholding of promotion, supersession or reduction of Judicial Officers;
- (f) removal or dismissal of any Judicial Officer;
- (g) compulsory retirement of Judicial Officers otherwise than by way of punishment;
- (h) important questions of policy or those affecting the powers and status of the Court laid before the Court by the Chief Justice or any other Judge;
- (i) matters connected with the Supreme Court;
- (j) annual administration report;
- (k) matters upon which the Government desires the opinion of the Court, if such matter is considered fit to be laid before the court by the Chief Justice; and

7 : Omitted words vide Amendment No. 10 Notification No.7/SRO/ dt. 20.12.66 pub in Raj.Gaz., Pt IV-C, Pg 525 (1 to 5) dt. 12.1.1967.

8 : Substituted Rule vide Amendment No. 10 Notification No.7/SRO/ dt. 20.12.66 pub in Raj.Gaz., Pt IV-C, Pg 525 (1 to 5) dt. 12.1.1967.

(1) any matter which the Chief Justice or the Administrative Committee, as constituted under Rule 16, may consider fit to be laid before them for consideration.

16. Administrative Committee - (1) A Committee of Judges shall be formed composed of the Chief Justice, the Administrative Judge and such other Judge or Judges as the Chief Justice may, from time to time, appoint. This Committee shall be called the Administrative Committee.

(2) Subject to these Rules, the Administrative Committee shall act for the Court in its administrative business in respect of the matters enumerated in rule 17.

17. Matters on which the Administrative Committee shall be consulted - The Administrative Committee shall be consulted on the following matters, namely -

- (a) the issue of general letters to subordinate courts;
- (b) the issue of directions regarding the preparation of returns and statements;
- and
- (c) any other matter which the Chief Justice or the Administrative Judge may desire to be brought before it.]

⁹ **17-A.** Rule inserted then deleted

¹⁰ **[18. Consultation how made -** The consultation with the Judges and the Administrative Committee, referred to in Rules 15 and 17 respectively shall be made either by circulating the papers connected with the matter among the Judges or the Administrative Committee, as the case may be, or by laying the matter before a meeting of the Judges or the Administrative Committee called by the Chief Justice.

19. Decision in case of difference of opinion - All the matters referred to in Rules 15 and 17 shall be disposed of in accordance with the views of the majority, and in case the Judges, including the Chief Justice, are equally divided, in accordance with the views of the Chief Justice.

20. Administrative business to be disposed of by the Chief Justice - Subject to Rules 15 and 17, the administrative business referred to in Rule 14 shall be disposed of by the Chief Justice.

⁹ : Inserted vide Notification no. 5/S.R.O./2009 dated 15.10.2009 then deleted vide notification dated 15.04.10, pub in Raj Gaz, Pt 4-C(I) Pg. 175 dated 4.3.11.

¹⁰ : Substituted Rule vide Amendment No. 10 Notification No.7/SRO/ dt. 20.12.66 pub in Raj.Gaz., Pt IV-C, Pg 525 (1 to 5) dt. 12.1.1967.

21. Appointment of Administrative Judge and allocation of work

- (1) The Chief Justice shall appoint a Judge to carry on the general administration of the Court. Such Judge shall be called the Administrative Judge and shall dispose of the administrative business in accordance with rule 22.

(2) The Chief Justice may also, by a general or special order, allocate specified business for disposal to any other Judge or a Committee of Judges, and such judge or Committee of Judges shall dispose of the same, subject to any special directions of the Chief Justice.

22. Work to be submitted to the Administrative Judge -

All administrative business, except such business as has been specially allocated by the Chief Justice to any other Judge or a committee of Judges, all material correspondence, all returns and statements, except return to a precept or judicial order or explanation called for by a judge or judges, or copies of judgments in sessions trials received monthly from Sessions Judges or references to the Court, shall be submitted by the Registrar to the Administrative Judge, together with his observations thereon, if any, and may, subject to these Rules, and to any special directions of the Chief Justice, be disposed of by that Judge.”]

23. Judges to consider speedily papers circulated to them -

When papers are circulated for opinion ¹¹[omitted words] the Judges shall consider the same as speedily as possible, giving priority to such as may have been marked Urgent.

24. Procedure for circulation.-

So far as convenient, papers for circulation shall be sent by the Registrar to the Judges ¹²[omitted words] in their order of seniority, commencing with the junior Judge. The Registrar or the Deputy Registrar shall, so far as practicable, obtain from each Judge such papers within three days from the date when the same are sent to him. The Registrar or the Deputy Registrar shall endorse on the papers the date when they were sent to, and the date when they were received back from each Judge. It shall not be necessary to send papers to any Judge who is not for the time being in Jodhpur.¹³ [omitted words].

25. Effect of a Judge not expressing his opinion within three days on urgent paper -

When a Judge does not write his opinion within three days from the date when he receives any urgent paper sent to him for opinion, he shall be deemed to have declined to express any opinion on the matter.

¹¹ : Omitted words vide Amendment No. 10 Notification No.7/SRO/ dt. 20.12.66 pub in Raj.Gaz., Pt IV-C, Pg 525 (1 to 5) dt. 12.1.1967.

¹² : Omitted words vide Amendment No. 10 Notification No.7/SRO/ dt. 20.12.66 pub in Raj.Gaz., Pt IV-C, Pg 525 (1 to 5) dt. 12.1.1967.

¹³ : Omitted words vide Amendment No. 10 Notification No.7/SRO/ dt. 20.12.66 pub in Raj.Gaz., Pt IV-C, Pg 525 (1 to 5) dt. 12.1.1967.

¹⁴ **26. Papers to be submitted to the Chief Justice after circulation**

- After any papers have been circulated for opinion, they shall, be submitted again to the Chief Justice, who shall examine the matter and issue orders in accordance with Rule 19.

27. Chief Justice may call a meeting of the Judges or the

Administrative Committee - The Chief Justice may call a Judges' meeting or a meeting of the Administrative Committee whenever there is business to be disposed of.

28. Notice of meeting to Judges - The Registrar shall give to the Judges concerned, except in a case of emergency, at least one clear day's notice in the case of a meeting of the Administrative Committee and three clear day's notice in the case of the Judges' meeting, of the date, place and hour when such meeting would be held and of the business to be brought before such meeting. In a case of emergency the Registrar shall give the best notice he can. It shall not be necessary to give notice of a meeting of the Administrative Committee to any Judge who is not for the time being in Jodhpur.

¹⁵ **29. Quorum** - The quorum necessary for the transaction of business shall be not less than two-third of the members in the case of a meeting of the Administrative Committee and not less than one-half of the Judges in the case of a Judges' meeting.

30. Proceeding to be recorded - The Registrar, or, in his absence, the Deputy Registrar, shall attend all Judges' meetings and meetings of the Administrative Committee and shall record in the respective minute books the proceedings at such meetings. The record of the proceedings shall be preceded by a statement signed by the Registrar or the Deputy Registrar, as the case may be, showing which of the Judges attended the meeting and the business for which the meeting was called.

Such record may be made either at the time of the meeting or subsequently from notes taken at the time by the Registrar or the Deputy Registrar, as the case may be.

31. Custody of Minute books - The minute books shall be kept in the safe of the Court and shall not be removed from the Court premises except by the Registrar with the sanction of the Chief Justice for the purpose mentioned in the next preceding Rule.

¹⁴ : Substituted Rule vide Amendment No. 10 Notification No.7/SRO/ dt. 20.12.66 pub in Raj.Gaz., Pt IV-C, Pg 525 (1 to 5) dt. 12.1.1967.

¹⁵ : Substituted Rule vide Amendment No. 10 Notification No.7/SRO/ dt. 20.12.66 pub in Raj.Gaz., Pt IV-C, Pg 525 (1 to 5) dt. 12.1.1967.

32. Effect of any irregularity in or omission to follow the procedure laid down in this Chapter - ¹⁶(1) No irregularity in, or omission to follow, the procedure laid down in this Chapter shall affect the validity of any order passed or anything done under these Rules.

¹⁷(2) For the removal of doubt, it is hereby mentioned that all administrative work disposed of by Chief Justice, the Administrative Judge or any other Judge or Judges to whom the work has been assigned by the Chief Justice for disposal shall be deemed to be disposed of by the Court.

CHAPTER IV

Affidavit and Oath Commissioners

33. Appointment of Oath Commissioners - The Chief Justice may from time to time appoint such persons as he may consider fit to be Oath Commissioners specifying the period or periods for which they have been so appointed.

34. Fees - Such fees shall be paid for the verification of affidavits before Oath Commissioners as may be prescribed from time to time by order of the Chief Justice.

35. Registers - Oath Commissioners shall maintain a register or registers 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 Chief Justice may from time to time fix the number of registers to be maintained and add to, or alter the particulars required to be entered therein.

The registers shall be open to inspection by the Registrar.

16 : Renumbered vide Amendment No. 10 Notification No.7/SRO/dt. 20.12.66 pub. in Raj.Gaz. Dated 12.1.67 Pt IV-C Pg 525 (1 to 5).

17 : Added vide Amendment No. 10 Notification No.7/SRO/dt. 20.12.66 pub. in Raj.Gaz. Dated 12.1.67 Pt IV-C Pg 525 (1 to 5).

36. Affidavit to bear serial number - Each affidavit shall bear on it the number and the year of the register in which it is entered and the serial number of the entry.

37. Duty of Oath Commissioner - An Oath Commissioner shall not allow an affidavit to be sworn before him unless it complies with the provisions of this Chapter.

38. Distribution of Fees - The fees paid shall be distributed among the Oath Commissioners in such manner as the Chief Justice may from time to time direct.

39. Removal of Oath Commissioners - The Chief Justice may in his discretion remove an Oath Commissioner from his office.

40. Affidavits filed or presented in Court - The provisions of Rules 126, 129, 130 and 135 of Chapter IX shall, so far as may be, apply to an affidavit filed or presented in Court. Every such affidavit and every exhibit annexed thereto shall be marked with the particulars of the case or proceeding in which it is sworn.

41. Full particulars of persons and places to be given - An affidavit shall fully describe the person swearing the affidavit with such particulars as will ensure his clear identification such as his full name, the name of his father, his religious persuasion, his rank or degree in life, his profession, calling, occupation or trade and his true place of residence. Any person or place referred to in an affidavit shall be fully described in such manner as to enable his or its identity to be clearly fixed.

42. Persons who may make affidavits - Except as otherwise provided by law or by these Rules or by an order of the Court, an affidavit may be sworn by any person having knowledge of the facts deposed to therein.

Two or more persons may join in an affidavit, each deposing separately to such facts as are within his knowledge.

43. Form of affidavit - When the deponent speaks to any facts within his own knowledge, he must do so directly and positively using the words "I affirm" or "I make oath and say," or words to that effect.

44. Facts to be within the deponent's knowledge or source to be stated - Except on interlocutory applications, affidavits shall be confined to such facts as the deponent is able of his own knowledge to prove.

On an interlocutory application when a particular fact is not within the deponent's own knowledge, but is based on his belief or information received from others which he believes to be true, the deponent shall use the expression "I am informed and verily believe such information to be true," or words to that effect, and shall sufficiently describe for the purpose of identification, the person or persons from whom his information was received.

When any fact is stated on the basis of information derived from a document, full particulars of that document shall be stated and the deponent shall verify that he believes such information to be true.

45. Identification of deponent - 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 some one known to him; and in such case the person before whom 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; or
- (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.

GROUND

46. Affidavit by Pardanashin woman - No affidavit purporting to have been sworn by a woman who did not appear unveiled in the presence of the person before whom the affidavit was made, shall be used unless she was identified in the manner specified in Rule 45, and the affidavit is accompanied by a separate affidavit by the person identifying her made at the time of identification setting forth the circumstances in which she was personally known to him or he was satisfied that she was such person as she alleged herself to be in her affidavit.

47. Contents to be explained to deponent - The person before whom an affidavit is sworn shall ask the deponents if he has read the affidavit and

understands the contents thereof. If the deponent states that he has not read it or appears not to understand the contents or does not know the language thereof, he shall read and explain or cause another person to read and explain in his presence, the affidavit to such person. Until he is satisfied that the deponent fully understands its contents he shall not allow the affidavit to be sworn.

48. Impounding of affidavit - When it appears to an Oath Commissioner that the deponent cannot be made to or will not understand the contents of the affidavit, he shall impound it and forward it to the Registrar for such action as he may consider necessary.

When an affidavit is impounded under this Rule, the person impounding the same shall certify therein the date on which and the circumstances in which, it was impounded.

¹⁸ **49. Oath or affirmation by deponent** - The person administering an oath or affirmation to the person making an affidavit shall follow the provisions of the Oaths Act, 1969 (Central Act No. 44 of 1969). The Form of Oath/Affirmation given in the Schedule to the said Act for affidavits is reproduced below –

Form No. 4 (Affidavits)

I 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.]

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

No interlineation or alteration or erasure shall be made in an affidavit after it has been sworn.

51. Certificate of verification - The person before whom an affidavit is sworn shall certify at the foot of the affidavit the fact of the swearing of the affidavit before him, the manner in which he has complied with rule 47 and the date and hour of swearing of the affidavit and shall mark, initial and date any exhibits referred to therein.

¹⁸ : Substituted vide Notification No.6/SRO, dated 28.10.1972 & published in Raj.Gaz.Ord. Part IV-C dated 11.1.1973, pg. 738(47).

52. Affidavit containing numerous corrections may not be accepted - The Court or the Registrar may refuse to receive an affidavit in which the interlineations, alterations or erasures appear to be so numerous as to make it expedient that the affidavit should be re-written.

53. Interpretation - In this Chapter 'Affidavit' includes a petition or other document required to be sworn, and 'sworn' shall include 'affirmed'.

CHAPTER V

Jurisdiction of Judges sitting alone or in Division Courts

54. Constitution of Benches - Judges shall sit alone or in such Division Courts as may be constituted from time to time and do such work as may be allotted to them by order of the Chief Justice or in accordance with his direction.

¹⁹**55. Jurisdiction of a single Judge** - Except as provided by these Rules or other law, the following cases shall ordinarily be admitted, heard and disposed of by a Judge sitting alone, namely;

- (i) a motion for the admission of a memorandum of appeal or cross-objection or an application for exparte interim order;
- (ii) a civil appeal;
- (iii) an execution appeal;
- (iv) a civil revision;
- (v) a Suit or proceeding in the nature of a suit coming before the Court in the exercise of its original or extraordinary civil, testamentary or matrimonial jurisdiction including a proceeding under The Indian Trusts Act, 1882 (Act No. II of 1882), The Companies Act, 1956 (Act No. I of 1956), The Designs Act, 1911 (Act No. II of 1911) or The Patents Act, 1970 (Act No. 39 of 1970);
- (vi) a reference under section 243 of the Rajasthan Tenancy Act, 1955 (Act No. III of 1955);
- (vii) a case or proceeding under section 30 of the Rajasthan High Court Ordinance, 1949 (Ordinance No. XV of 1949);
- (viii) a criminal appeal, application or reference under the Code of Criminal Procedure, 1973 or any other law except an appeal, application or reference in a case in which a sentence of death or imprisonment for life has been passed and in criminal matters against acquittal arising out of offences punishable only with death or imprisonment for life;

(ix) a case coming before the Court in the exercise of its ordinary or extra-ordinary original criminal jurisdiction ²⁰(deleted Semi-colon) ²¹except the application for releasing the accused on parole in pending Division Bench appeals.

(x) an appeal or revision from an order passed under sections 340, 341 and 343 of the Code of Criminal Procedure, 1973;

²² & ²³(xi) the writ petitions under Article 226 and 227 of the Constitution of India, except ²⁴;

²⁵ & ²⁶(a) the Writ Petitions challenging the vires of the provisions of any Act ; ²⁷(Deleted)

²⁸[(b) writ petitions filed by Judicial Officers relating to their services;

(c) Civil writ Petitions arising out of and relating to Central Excise and Salt Act, 1944 and Customs Act, 1962;

(d) Challenging the decisions of any Tribunal Constituted under Article 323-A and 323-B of the Constitution of India.”]

(xii) an application under Article 228 of the Constitution of India and the case withdrawn under the said Article :

Provided that -

(a) the Chief Justice may, from time to time direct that any case or class of cases which may be heard by a Judge sitting alone shall be heard by a Bench of two or more Judges;

(b) a Judge may, if he thinks fit, refer a case which may be heard by a Judge sitting alone on any question or questions of law arising therein for decision to a Bench of two Judges; and

(c) a Judge before whom any proceedings under The Indian Trusts Act, 1882 (Act No. II of 1882), The Companies Act, 1956 (Act No. I of 1956), The Designs Act, 1911 (Act No. II of 1911) or the Patents Act, 1970 (Act No. 39 of 1970) is pending, may with the sanction of the Chief Justice, obtain the assistance of one or more other Judges for the hearing and determination of such proceedings or of any question or questions arising therein.

56. Cases to be heard by three Judges - The following matters shall be heard and disposed of by a Bench of three Judges, namely:—

20 : Deleted Semicolon vide Rajasthan Gazette Part 1 (B) dtd. 2.10.1997 Page 59

21 : Added words vide Rajasthan Gazette Part 1 (B) dtd. 2.10.1997 Page 59.

22 : Deleted vide Rajasthan Gazette Part 1(B) dtd. 28.2.1987 Page 283.

23 : Inserted vide Rajasthan Gazette Part 7 dtd.18.5.1989 Page 91.

24 : Semicolon inserted after the word “except” vide Rajasthan Gazette Part 1 (B) dtd. 2.10.1997 Page 59.

25 : Inserted vide Rajasthan Gazette Part 7 dtd.18.5.1989 Page 91

26 : Numbered vide Rajasthan Gazette Part 1 (B) dtd. 2.10.1997 Page 59.

27 : Deleted vide notification No.2/SRO/89 dtd. 27.4.1989, Rajasthan Gazette Part 7 dated 31.8.1995 pg.89.

28 :New sub-clauses Added vide Rajasthan Gazette Part 1 (B) dtd. 2.10.1997 Page 59.

²⁹[(a) a reference made by the Board of Revenue under sub-section (1) of Section 57 of the Indian Stamp Act as adapted in Rajasthan.]

(b) a case for confirmation of a decree for dissolution of marriage made by a District Judge under the Indian Divorce Act, 1869.

57. Proceedings under the Legal Practitioners' Act 1879 - (1) A proceeding under the Legal Practitioners' Act, 1879, against a Pleader with respect to any misconduct or his conviction for any criminal offence shall be heard and disposed of by a Bench of not less than two Judges.

(2) An enquiry under section 36 of the Legal Practitioners' Act, 1879, shall be made by a Bench of two Judges.

³⁰**58. Cases withdrawn under Article 228 of Constitution -** (1) An application for the withdrawal of a case under Article 228 of the Constitution shall be laid before the Chief Justice for orders. The Chief Justice may either decide himself whether the case should be withdrawn under the said Article or may direct that the application be laid before another judge for a decision of this question.

(2) When a case is withdrawn from a court subordinate to the court under Article 228 of the Constitution it shall be heard by a Bench of two or more judges specially appointed by the Chief Justice.”

59. Reference of a case to a larger Bench.- The Chief Justice may constitute a Bench of two or more Judges to decide a case or any question or questions of law formulated by a Bench hearing a case. In the latter event the decision of such Bench on the question or questions so formulated shall be returned to the Bench hearing the case and that Bench shall follow that decision on such question or questions and dispose of the case after deciding the remaining questions, if any, arising therein.

60. Contempt in facie curiae - Where a contempt as contemplated by section 480 of the Code of Criminal Procedure, 1898, is committed before the Court, the Judge or Judges before whom such contempt is committed may take cognizance of the offence and deal with the offender under the provisions of that and subsequent sections of that Code.

61. Cases to be heard by two Judges - Save as otherwise provided by these Rules or other law or by any general or special order of the Chief Justice

29 : Substituted vide Rajasthan Gazette Part IV-C dated 11.1.73 pg 708(47).

30 : Substituted vide Rajasthan Gazette No. 10 dated 16.4.55, Part IV-C, Pg 4.

every other case shall be heard and disposed of by a Bench of two Judges, provided that, on any day when there is only one Judge sitting on the Bench either at Jodhpur or Jaipur, such Judge may exercise jurisdiction which may be exercised by a vacation Judge during the vacation.

³¹[**61-A. Opinion when equally divided** - If the Judges constituting a bench are equally divided in opinion as to the decision to be given on any point, and the case cannot be disposed of in accordance with Section 36 of the Rajasthan High Court Ordinance 1949, the Judges shall state the point upon which they differ and the case shall then be heard upon that point by one or more of the other Judges and the point shall be decided according to the opinion of the majority of the Judges who have heard the case including those who have first heard it.]

62. Senior Judge - Subject to any general or special orders of the Chief Justice, senior Judges at Jodhpur and Jaipur shall, in the absence of the Chief Justice, exercise jurisdiction at their respective places in connection with the arrangement of Benches, listing of cases and other like matters.

63. Vacation Judges - (1) Criminal work shall continue to be dealt with during the long vacation by such Judges as may be appointed for the purpose by the Chief Justice.

(2) Subject to any general or special order of the Chief Justice, Vacation Judges shall, in the absence of the Chief Justice, exercise jurisdiction at Jodhpur or Jaipur, as the case may be, in connection with the arrangement of Benches, listing of cases and other like matters.

They may also exercise the original and appellate jurisdiction vested in the Court in any miscellaneous matter or any civil matter connected with, relating to or arising out of, the execution of a decree, which may in their opinion, require immediate attention.

Such jurisdiction may be exercised even in cases which are, under the Rules, cognizable by two or more Judges, unless such case is required by any other law to be heard by more than one Judge.

³²[**64. Application for review** - An application for the review of a judgment shall be presented to the Registrar who shall endorse thereon the date when it is presented and lay the same as early as possible before the Judge or Judges by whom such judgment was delivered along with an office report as to limitation and sufficiency of court fees. If such Judge or Judges or anyone or more of such Judges be no longer attached to the Court, or all, or an of them, are or is precluded, by absence or other cause for a period of six months next after the application, from considering the decree or order to which the application refers, the application shall be laid before the Chief Justice, who shall with due regard

31 : Added vide Rajasthan Gazette No. 150, dated 5.2.55, Part IV – C, Page 889.

32 : Substituted vide Rajasthan Gazette No. 18, dated 4.8.60, Part IV-C, Page 235-236.

to the provisions of Rule 5 of Order XLVII of the Code, arrange for a Bench for the hearing and disposal of such application.]

65. Subsequent application on the same subject to be heard by the same Bench - No application to the same effect or With the same object as a previous application upon which a Bench has passed any order other than an order of reference to another Judge or Judges, shall, except by way of appeal, ordinarily be heard by any other Bench.

The application when presented by or on behalf of the person by whom or on whose behalf such previous application was made shall give the necessary particulars of such previous application, the nature and the date of the order passed thereon and the name or names of the Judge or Judges by whom such order was passed.

66. Tied up cases - (1) A case partly heard by a Bench shall ordinarily be laid before the same Bench for disposal. A case in which a Bench has merely directed notice to issue to the opposite party or passed an *ex parte* order shall not be deemed to be a case partly heard by such Bench.

(2) Where a criminal revision has been admitted on the question of severity of the sentence only, it shall ordinarily be heard by the Bench admitting it.

67. Application in a tied up case - Any application in a case which may, under the next preceding Rule, be heard by a particular Bench shall ordinarily be heard by such Bench.

68. Certain applications to be laid before the Chief Justice for orders - An application for the expediting of the hearing of a case or for the removal of a case to be tried and determined by the Court under section 17 of the Rajasthan High Court Ordinance ³³(Deleted words) shall be laid before the Chief Justice for orders.

³⁴**[Business in Chambers]**

68-A. The powers of the Court in relation to the following matters may be exercised by a Single Judge sitting in Chambers, namely, -

(1) Application for leave to compromise or discontinue an appeal in forma pauperis.

(2) Applications ³⁵(Omitted words) for intervention in a writ, appeal or other proceeding.

33 : Deleted words vide Rajasthan Gazette No. 10 dated 16.4.55, Part IV – C, Page 4.

34 : Added vide Rajasthan Gazette Part 4 (C) Dated 27.12.73 Page 135(108-09).

35 : Omitted vide Rajasthan Gazette Part 4 (C) dated 2.9.76 Page 280.

- ³⁶[(3) (Omitted clause)
(4) (Omitted clause)
(5) (Omitted clause)]

68-B. (1) The Chief Justice may from time to time appoint a Judge to hear and dispose of all applications which may be heard by a Judge in Chambers under these rules.

(2) The Judge in Chambers may at any time adjourn any matter and lay the same before the Court.]

CHAPTER VI

Hearing and Adjournment of Cases

69. Order-sheet - (1) As soon as an appeal or application which may be registered and numbered as a separate case under Rule 125 of Chapter IX or reference is received, an order sheet in the prescribed form shall be attached thereto. There shall be one order sheet for every case.

(2) When an appeal or application is presented in Court or before the Registrar the first entry on the order sheet shall be made by the Reader concerned. In the case of a reference it shall be made by the clerk concerned.

(3) The entry shall indicate the date on which the appeal or application was presented or the reference received in the office. It shall also record the order, if any, passed on that date.

70. Order-sheet to be in chronological order - The order-sheet is intended to be a complete record of the history of the case in chronological order & all orders passed and all office reports in the case, including reports as to deficiency in the amount of court-fees, non-payment of process-fees, service of notices etc., shall be entered thereon.

71. Maintenance of Order-sheet.- (1) The order-sheet shall be a continuous one consisting of as many sheets as may be necessary. No entries shall be made on a new sheet until all available space on the previous sheet has been utilized.

(2) The order-sheet shall bear one general number, different sheets thereof being given separate sub-numbers.

(3) When an order is recorded by the Court or the Registrar on the order-sheet, a note thereof shall also be made by the Reader on the paper to which the order relates. When an order is recorded by the Court or the Registrar elsewhere, an entry thereof shall be made by the Reader on the order-sheet.

(4). All orders recorded by the Court or the Registrar on the order sheet and all entries on the order-sheet of orders recorded elsewhere, shall be serially numbered.

(5) All office reports recorded on the order-sheet shall be signed and dated by the clerk concerned, the date being entered immediately below the signature.

72. List of Ready Cases - Subject to the directions of the Chief Justice, the Registrar shall cause to be published from time to time a list of all cases ready and likely to be put up for hearing before the Court.

73. Daily Cause List - The Registrar shall subject to such directions as the Chief Justice may give from time to time cause to be prepared for each day on which the Court sits, a list of cases which may be heard by the different Benches of the Court. The list shall also state the hour at which and the room in which each Bench shall sit. Such list shall be known as the Day's List.

³⁷**[73-A. Cases of Public Importance, Disposal thereof** - On a certificate being given by the Advocate General/Public Prosecutor that a particular matter is of urgent public importance and should be disposed of as early as possible in public interest, the Court shall examine the matter, and if it is satisfied about its urgency, it shall be given top priority and shall be heard and disposed of as early as possible.]

74. Part-heard cases - A case which remains part-heard at the end of the day shall, unless otherwise ordered by the Judge or Judges concerned, be placed first after miscellaneous cases, if any, in the Day's List for the day on which such Judge or Judges next sit. Every part-heard case entered in the Day's List may be proceeded with whether any Advocate appearing in the case is present or not:

Provided that if any part-heard case cannot be heard for more than two months on account of the absence of any Judge or Judges constituting the Bench, the Chief Justice may order such part-heard case to be laid before any other Judge or Judges to be heard afresh.

75. Cases in which a date is fixed - A case in which a date has been fixed for hearing shall, so far as possible, be placed in the Day's List immediately after miscellaneous and part-heard cases.

76. Case may be disposed of on date fixed if notices served - If on the day fixed for hearing of any case or other matter, it appears that the requisite notices have been duly served, such case or other matter may be disposed of by the Court on that day. But if it is not disposed of on that day, no further notice of

the date of hearing other than an entry in the Day's List on the day on which it is to be heard, shall be necessary.

³⁸[**76-A. Holiday** - 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.]

77. Cases to be called on in their order in Day's List - Cases in the Day's List of a Bench shall, unless otherwise directed by the Bench, be called on and disposed of in the order in which they stand in the List.

78. Adjournment on party's application - In civil cases, except where an adjournment is made with the consent of the parties or where from insufficiency or want of notice a party has not been able to prepare itself for the hearing of the case, the Court while granting an adjournment may direct the party applying for such adjournment to pay to the opponent or his Advocate such costs as the Court may consider reasonable.

79. Court may order a case to stand out of its place or be adjourned on application - On an application being made to it, the Bench may, for sufficient cause shown, order any case listed before it for hearing to stand out of its place in the Day's List or to be adjourned for such period as may be considered just. Where an adjournment for not more than three days is sought, the application may be made orally. In considering whether there is sufficient cause, any objection on behalf of the other party shall be taken into account.

Such motions shall be made as soon as the Bench begins its work for the day and shall not ordinarily be entertained if made at any other time:

Provided that no adjournment shall be granted under this Rule unless there is sufficient work for the day.

80. No right to have a case put out of its place in Day's List owing to Advocate's engagement elsewhere - No party shall have the right to have a case put out of its place in the Day's List on the ground that his Advocate or his brief- holder is engaged before another Bench.

The Bench may, however, order any case other than a miscellaneous case or application or a case which is fixed for hearing under rule 11 of Order XLI of the Code to stand out of its place in the List if such Advocate or brief-holder is alone in the case and is actually arguing a case before another Bench or is alone in a case that is actually being heard by another Bench and has, before the case is called on, given information in writing to the Bench Reader that he is so

engaged before the other Bench. A case will, however, not ordinarily be so put out of its place in the List unless there is another case in the List in which the parties or their Advocates are ready and present in the court room so that the case may be proceeded with at once.

It shall be the duty of the Advocate as soon as the case in which he is engaged in the manner indicated above in another Bench is over to inform the Bench Reader accordingly.

A case shall not ordinarily be put out of its place in the List under this Rule more than once.

81. Application that a case be not listed on any particular day or days - (1) The Chief Justice may on the application of any party order that a case shall not be placed in the Day's List on any particular day or days.

(2) Such application shall be duly stamped and signed by the applicant or his Advocate and presented before the Registrar. The application shall be laid before the Chief Justice for orders along with a note by the Registrar showing the extent to which, if at all, the work of the Court will be interfered with if the application were to be granted.

82. Advocate's application for postponement of his cases - (1) The Chief Justice may on the application of an Advocate postpone his cases for such time as he may deem proper, if he is satisfied that such postponement is necessary on account of a marriage, death or illness or any other unavoidable or urgent reason.

(2) An application under this Rule shall be accompanied by a list of cases desired to be postponed specifying the occasion or occasions, if any, when such case was previously postponed under this Rule. It shall also indicate the cases in which the date of hearing has been fixed by a Bench. If any omission or inaccuracy in this regard is discovered in the application later, it may result in the order of postponement being withdrawn forthwith.

83. Alteration of date when fixed by a Judge - If the date of hearing in any case has been fixed by a Judge any alteration in such date shall, so far as possible, be made after consulting him.

84. Inspection of record of a case on the Day's List - Except with the permission of the Bench or the Bench Reader, no Advocate shall be allowed access to the record of a case in the Day's List of a Bench before the case is called on for hearing. During the progress of the arguments in the case, any of the parties' Advocates may have access to the record when it is not being actually referred to or examined by the Bench.

³⁹[**84-A. Ascertainment of time for arguments from the Counsel of parties.-** (1) At any time before or as soon as after the commencement of arguments, whether at the stage of admission, orders or final hearing of a case, as may be feasible, the Court may ascertain from the Counsel of each party to be heard, the time which the Counsel's arguments on the matter are likely to take. The Court may then fix the time for the arguments of each party or each Counsel. The Counsel may be permitted to supplement the oral arguments by written submission, but will not be allowed to exceed the time so fixed, unless the Court itself considers it necessary, or desires that he should do so in any matter requiring further elucidation by oral arguments.

(2) The time so fixed, may be incorporated in the order sheet.]

CHAPTER VII

Judgment and Decree

85. Pronouncing of judgment - (1) After a case has been heard, judgment may be pronounced either at once or on some future date which shall be notified in the Day's List according to these Rules. No other notice to the parties shall be necessary.

(2) Where a case has been heard by two or more Judges and judgment has been reserved, their judgment or judgments may be pronounced by any one of them. If no such Judge be present, such judgment or judgments may be pronounced by any other judge.

⁴⁰(3) "Where a case has been heard by a single judge and judgment has been reserved, his judgment may be pronounced, if such judge be not present, by another judge."

86. Judgment or order to be recorded - Every judgment or order delivered by the Court shall be recorded. Where a written judgment or order is delivered, such judgment or order shall form part of the record. Where the judgment or order is delivered orally in open Court, it shall be taken down by a judgment writer and a transcript thereof shall form part of the record.

⁴¹(i) "If however, a supplementary cause-list is necessary for pronouncement of any reserved judgment, it shall be prepared. On pronouncement of such judgment the order-sheet shall be got noted by the parties or their counsel in court or notified by the office to the Advocate concerned."

87. Transcript of judgment or order prepared by a judgment writer - The transcript of the judgment or order prepared by the judgment writer shall be filed by him' with the paper book or record of the case to which it

39 : Added vide Raj.Gaz. Part 1 (B) dated 26.8.82 Page 91(135).

40 : Added vide Rajasthan Gazette No. 52 dated 27.3.58 Part IV- C at Page 1121.

41 : Added & Numbered vide Rajasthan Gazette Part 4 (C) dated 8.11.90 Page 179.

relates not later than three days from the date on which such judgment or order was delivered. The judgment writer shall initial the transcript and enter at the foot thereof the date on which the judgment or order was delivered and the date on which the transcript was filed with the paper book or record of the case.

88. Judgment or order to be sealed with the seal of the Court

- (1) When the transcript of the judgment or order prepared by the judgment writer has been filed with the paper-book or record of the case, the Bench Reader shall submit it to the Judge or Judges who delivered it. It shall then be signed or initialled by such Judge or Judges after such corrections as may be considered necessary. Thereafter, it shall be sealed with the seal of the Court by the Bench Reader.

2. Where a Judge by whom the judgment or order was delivered is not available on account of illness, retirement or any other cause, the transcript shall be submitted to the Chief Justice and it may be sealed under his orders without the signature of such Judge, a note to that effect being made on such judgment or order under the signature of the Registrar.

3. Where a written judgment or order is delivered it shall, after it has been signed or initialled by the Judge or Judges delivering it, be sealed with the seal of the Court by the Bench Reader.

89. Personal Assistants to Judges - There shall be attached to each Judge a Personal Assistant who shall act as his judgment writer.

90. Preparation of decree or formal orders - After a suit or a proceeding in the nature of a suit or an appeal from a decree has been heard and decided, a decree shall follow the judgment. In other cases, unless otherwise ordered, a formal order shall follow the order finally disposing of the case or any order by which costs have been awarded.

91. Taxation of Costs - (1) Where the Court has passed an order that the parties shall pay their own costs or that no costs be allowed or an order to the same effect or has passed no order as to costs, no sum shall be entered on taxation in respect of Advocates' fees except such sum as may have been ordered to be paid by a party irrespective of the result of the case.

(2) Where a party is only partially successful and costs are ordered to be paid in proportion to the success of such party, the amount of all taxable costs payable to it shall be proportionately reduced.

92. Contents of decree or formal order - (1) The decree or formal order shall be drawn up in English and shall bear date of the day on which the judgment or order upon which it is founded was delivered.

(2) It shall contain the nature, number and year of the case, the names and descriptions of the parties, the names of their Advocates and a clear specification of the relief granted or other adjudication made.

(3) It shall state the amount of costs incurred in the case and by whom and in what proportions such costs and costs in the court or courts below, if any, are to be paid.

93. Notice of decree or formal order for objection - As soon as the decree or formal order has been drawn up, the Registrar shall cause to be exhibited on a notice board placed in a conspicuous position in the Court building and open to the public, a notice stating that the decree or formal order has been drawn up. The notice shall further state that any party to it or his Advocate may on or before a date to be specified in the notice peruse the same and sign it or file with the Registrar an objection there-to on the ground that in his view there is a clerical error or omission in the decree or formal order or that it is not in accordance with the judgment or order upon which it is founded. Such objection, if any, shall state clearly what the alleged clerical error or omission is or in what respect the decree or formal order is not in accordance with the judgment or order. It shall be signed and dated by the party or the Advocate filing it.

94. Procedure on objection - Where an objection is filed under the next preceding Rule, the Registrar shall after giving notice to the parties concerned decide such objection with liberty to adjourn any matter to the Judge by whom such judgment or order was delivered in Chambers. If such Judge is not available, the matter shall be put up before such Judge as the Chief Justice may nominate.

95. Decree or formal order to be signed and sealed - (1) After the decree or formal order has been corrected or altered as directed by the Registrar or the judge, as the case may be, it shall be signed by the Deputy Registrar and sealed with the seal of the Court.

(2) If no objection is filed, the Deputy Registrar shall sign the decree or formal order and seal it with the Seal of the Court on the expiry of the date specified in the notice.

CHAPTER VIII

Miscellaneous Provisions

Section A. Seal of the court.

96. Seal of the Court - The seal of the Court shall be delivered to and kept in the custody of the Chief Justice or of an officer of the Court from time to time nominated by the Chief Justice.

All writs, summonses, precepts, rules, orders and other mandatory processes to be used, issued or awarded by the Court ⁴²(Deleted words) shall be sealed with the said seal.

Section B. Civil Jurisdiction of the court

97. Application for declaration that the case is a fit one for appeal in the case of a judgment by one Judge - Where a Special Appeal from the judgment of one Judge does not lie unless such Judge has declared that the case is a fit one for appeal, an application for such declaration may be made orally before or at the time when the judgment is delivered. No such application shall be entertained later. The Court shall thereupon record an order granting or refusing to grant such declaration.

Section C. Service of notice

98. Service of notice by post or publication - Any notice may in lieu of or in addition to any other mode of service provided by law or by these Rules be served, if so ordered, by sending it by registered post addressed to the person upon whom it is to be served or by publishing it in a newspaper.

A notice served by registered post shall, unless it is received back from the post office as undelivered, be deemed to have been served at the time at which it would be delivered in the ordinary course of post.

99. Presumption of service in case of a notice sent by registered post - Where a notice has been sent by registered post it may be presumed to have been duly served if—

- (i) the cover containing the notice is not returned back as undelivered by the post office within one month of the date of despatch of such cover;
- (ii) the cover is received back with an endorsement purporting to be by a postal servant stating that the addressee refused to receive the cover containing the notice; or
- (iii) where the notice was sent acknowledgment due, an acknowledgment purporting to have been signed by or on behalf of the addressee is received from the post office.

Section D. Forms of Oaths

100. Forms of oaths and affirmation - The following forms of oaths and affirmations are prescribed under section 7 of the Indian Oaths Act, 1873, namely:—

FORM OF THE OATH OR AFFIRMATION TO BE ADMINISTERED TO THE WITNESS

42 : Deleted words vide Rajasthan Gazette No. 110 dated 31.10.53 Part II – P.1105

I swear in the presence of Almighty God (or solemnly affirm) that the evidence which I shall give to the court shall be true, that I will conceal nothing, and that no part of my evidence shall be false.

SO HELP ME GOD

**FORM OF THE OATH OR AFFIRMATION TO BE ADMINISTERED
TO THE INTERPRETER**

I swear in the presence of Almighty God (or solemnly affirm) that I understand and speak the.....and.....languages, and that I will well and truly and faithfully interpret, translate and explain all questions and answers and all such matters as the court may require me to interpret and explain.

SO HELP ME GOD

**FORM OF THE OATH OR AFFIRMATION TO BE ADMINISTERED
TO THE JUROR**

I swear in the presence of Almighty God (or solemnly affirm) that I will well and truly try and true deliverance make, between the State and the prisoner at the bar, and give a true verdict according to the evidence.

SO HELP ME GOD

Note.—The words "So help me God" are to be omitted when an affirmations is administered.

Section E. Record of Evidence

101. Recording of evidence - (1) Witnesses in attendance shall be examined orally under the direction and supervision of the Court and their evidence taken down in the form of questions and answers or in that of a narrative by a judgment writer or by such other person as may be appointed for the purpose.

(2) The evidence so taken down or, if it is taken down in shorthand, the transcript of the shorthand note shall be read and, where necessary, interpreted to the witness and shall be signed by him, and the Judge shall also sign it after making such corrections therein as may be found necessary.

102. Evidence recorded by another Judge - Except as provided by law where at any stage of the hearing of a suit or proceeding, any Judge, or Judges constituting the Bench are replaced by another Judge or Judges, such Judge or Judges may deal with any evidence taken under these Rules as if such evidence had been taken under their direction and supervision and proceed with the suit or proceeding from the stage at which it may be when the case is taken up by them.

Section F. Issue of Commission

103. Deposit of expenses of commission - Except in criminal cases, no commission may be issued by the Court unless the party at whose instance or for whose benefit such commission is to be issued has deposited with the cashier within such time as may be fixed, such sum as the Court may consider reasonable for the expenses of the commission.

Section G. Furnishing of Security

104. Form of Security - Security furnished under the provisions of Order XLV of the Code or otherwise in pursuance of any order of the Court shall, unless otherwise ordered, be furnished in the form of cash or Government securities or Post Office National Savings Certificates or a deposit in the Imperial Bank of India or immovable property.

105. Determination of sufficiency of Government securities or P.O. National Savings Certificates - In determining the sufficiency or otherwise of the security when furnished in the form of Government securities or Post Office National Savings Certificates, the value on the date on which such security is furnished and not the face value shall be taken into consideration.

106. Endorsement in case of Government securities - Where security is furnished in the form of Government securities, they shall be endorsed in the name of the Registrar.

107. Procedure when Post Office National Savings Certificates are given as security - Where security is furnished in the form of Post Office National Savings Certificates, they shall be in the name of the Registrar.

In such case the following procedure shall be followed, namely—

(a) If fresh Certificates have to be purchased, the application for the purchase of such certificates shall be signed by the pledger and handed over to the Registrar along with an affidavit affirming that his total holdings in the post-office including the amount of the Certificates proposed to be pledged as security do not exceed the maximum amount prescribed for individual⁴³ investment under the Post Office Rules.

(b) If the Certificates stand in the name of the pledger, he shall present them to the Registrar along with an application addressed

43 : See Post and Telegraph Guide, Part I, Section VII- B, rules 2(4)'

to the Postmaster at Jodhpur or Jaipur, as the case may be, praying that the Certificates be transferred to the name of the Registrar, and an affidavit as required by clause (a).

(c) The Registrar shall, if he is satisfied that the application is in order, give the pledger an authority to the Postmaster at Jodhpur or Jaipur, as the case may be, to invest the amount as security in the following form—

“I hereby sanction the investment of Rs in Post Office National Savings Certificates on account of security pledged to the Registrar of the High Court of Judicature at Jodhpur in.....case No.....of ”

(d) The Pledger shall thereafter present the cash or the Post Office National Savings Certificates, as the case may be, along with the necessary papers to the Postmaster concerned who will then either issue the certificates in the name of the Registrar or transfer them to his name. The certificates shall thereafter be deposited by the pledger with the Registrar.

(e) When the security is to be released, the Registrar shall return the - certificates to the pledger giving him written authority to resume possession. The pledger may thereafter present such authority and the certificates at the post office concerned and have the certificates transferred to his own name.

108. Fixed deposit receipt to be in Registrar's name - Where security is furnished in the form of a fixed deposit in the Imperial Bank of India, the fixed deposit shall stand in the name of the Registrar and the bank receipt shall be filed with him.

109. Particulars of security to be stated in a memorandum - Where security is furnished in the form of cash, Government securities, Post Office National Savings Certificates or a fixed deposit in the Imperial Bank of India, it shall be accompanied by a memorandum containing all necessary particulars.

110. Security of immovable property - Where the security offered consists of immovable property, the person giving such security shall file a security bond duly registered hypothecating such property in the name of the Registrar and his successors in office together with (1) a specification of the title of the mortgagor, (2) an affidavit of the person executing the security bond affirming that the property secured is of sufficient value to cover the amount of security required and (3) the necessary certificate from the Registration Office concerned indicating that the property is free from encumbrances or, in case the property is encumbered, the particulars and extent of such encumbrances. The Court may before accepting such security direct that it be verified by the District Judge of the district within which such immovable property is situated.

Section H-Summary Determination of Appeal

111. Application for summary determination of a First Appeal -
(1) A respondent to a First Appeal valued at less than twenty thousand rupees who has filed no cross-objection may, on receipt of a notice to appear and

answer the appeal and within thirty days of the date fixed in the notice for his appearance, make an application for the summary determination of the appeal on the ground that it is frivolous or vexatious or that it has been filed merely to cause delay or that it can be disposed of on a preliminary ground and that a paper-book is not necessary for its disposal.

(2) The application shall be accompanied by documentary proof of the fact that a copy of the application has been served on the appellant's Advocate. Such proof may consist of an acknowledgment from such Advocate of having received the copy, a postal acknowledgment in case the copy was served on him by registered post or an affidavit showing how the service was effected.

(3) The application along with the appeal shall be listed for hearing as early as possible after the expiry of thirty days from the date when notice of the application was served on the appellant's Advocate, provided that no cross-objection has been filed in the appeal. If the court does not summarily dismiss the appeal, it shall reject the application and thereafter the appeal shall proceed as if no application under this Rule had been made. In case a cross-objection has been filed before the application is listed for hearing, the court shall reject such application.

Section I —Civil revisions and appeals from appellate orders

112. Civil revisions and appeals from Appellate orders - Subject to these Rules, the procedure provided in Order XLI of the Code with respect to appeals, shall, so far as may be, apply to revisions and appeals from appellate orders where such appeals are allowed under any law.

113. Connecting cases - No application shall be required for connecting cases arising out of the same decree, judgment or order and such cases shall be connected whether there be any application or not.

When any other cases are sought to be connected, a properly stamped application shall be presented to the Registrar after giving notice to the Advocates for all the other parties to such cases. The signature of an Advocate on such application shall be sufficient indication that notice has been given to him. Any party desiring to contest the application may file an objection within ten days. Where no objection has been filed, the Registrar may pass orders on the application. Where an objection has been filed, the application shall be listed before the Court for orders.

Section J —Paper book

114. Exclusion of papers from the paper book by order of the Chief Justice - The Chief Justice may by general order direct that any copy of paper required under these Rules to be included in a paper-book other than the paper book of a First Appeal (not being an Execution First Appeal), be not so included therein. In such case the original paper on the record of the case shall be entered in the general index and clearly flagged.

115. Inclusion of papers in the paper book by order of the Bench

- Where the Bench hearing the case requires any paper not on the paper book to be copied, transliterated or translated, a typed copy, or a transliteration or translation of such paper shall be included in the paper-book.

116. Inclusion of a transliteration or translation instead of a copy in the paper book

- The Chief Justice may from time to time issue directions as to the manner in which and the conditions according to which a transliteration or translation of any paper on the record of a case may be prepared for inclusion in the paper book instead of a copy as required by these Rules.

117. Information on application.- (1) Any person desirous of ascertaining the serial number and date of institution or other registered particulars respecting a case or proceeding, shall present or send by post to the Registrar a written application bearing a court-fee label of the value of ⁴⁴(75 Naya Paisas) giving the best particulars he can as to the year of institution and the names of parties. The Registrar shall forward such application to the Superintendent of the department concerned, who shall have the application marked with a serial number and return it with the necessary information, if obtainable, to the applicant within three days from the date of the application or earlier, if possible. If such information cannot be given within the aforesaid period, the Superintendent shall on the expiry of the said period report to the Registrar the cause of non-compliance and specify the date when it would be possible for such information to be supplied. The application shall be sent back to the applicant and the information given to him when he returns it to the Registrar after such date.

(2) Where the applicant desires that the information be sent to him by post, he shall attach to his application a postage stamp of the requisite value or a prepaid post card to enable the reply to be sent to him by post.

(3) A printed copy of this Rule in Hindi shall be posted on the notice board in a conspicuous place in the Court-house.

(4) Superintendent of the Department concerned shall maintain a register of applications made under this Rule in the form given below:—

APPLICATIONS FOR INFORMATION UNDER CHAPTER VIII, RULE 117.

Serial No.	Date	Name of applicant	Description of case	No. of questions asked	Value of court fee labels affixed	Date of return of application	Remarks.

118. Information on application by a party - A party to a pending case or proceeding may obtain information with respect to such case or proceeding

by means of a written application. A fee of four annas for every question asked shall be paid in court-fee labels affixed to the said application.

The questions asked must be of a simple nature admitting of a short answer and in no circumstances shall the right conferred by this Rule be so exercised as to be a substitute for obtaining more detailed information by an inspection of the record or by an application for copy.

An application under this Rule shall also be presented and dealt with, so far as may be, in the manner provided in the next preceding Rule except that the Superintendent concerned shall supply the necessary information if possible, the same day in case the application is presented in the fore-noon and the next day in case it is presented in the after-noon.

Section K —Approved Law Journals

119. Supply of copies of judgments to approved Law Journals - Rules 886,887, 895 and 897 contained in Part VIII, Chapter XXXIX-Copies, shall, so far as may be, apply to the issue of copies of judgments approved for reporting to representatives of approved Law Journals. The other Rules contained in that Chapter shall not apply to such copies.

The issue of copies to representatives of such Journals shall be governed by the following provisions, namely—

- (1) An approved list of Law Journals entitled to receive copies of judgments approved for reporting under this Rule shall be maintained under the orders of the Chief Justice.
- (2) No Law Journal shall be entered in the list unless it has given an undertaking that it will apply for a copy of every judgment delivered by the Court which is marked A. F. R. (Approved For Reporting).
- (3) No Law Journal on the approved list shall be entitled to receive more than one copy of such judgment under this Rule.
- (4) As soon as a judgment has been approved for reporting by the Court, the Bench Reader shall enter it in a register to be called "Register of Judgments marked A.F.R." The entries shall be made in chronological order. He shall send such judgment immediately to the Superintendent of the Judicial Department.
- (5) As soon as a judgment marked A.F.R. has been received by the Superintendent, he shall send it to the Superintendent of the Copying Department for the preparation of as many copies as there are Law Journals on the approved list together with one copy for the Indian Law Reports (Rajasthan Series).
- (6) Two registers in the prescribed form to be called "Register of copies of judgments marked A.F.R." and "Register of Applications for copies of Judgments marked A. F. R." shall be maintained by the Superintendent of the Copying Department with respect to such copies.
- (7) Copies prepared under this Rule shall contain the following additional information, namely.—

- (i) the names of Advocates appearing in the case on both sides;
- (ii) the names of Judges delivering the judgment of the Court; and
- (iii) full designation of the lower court along with the date of its judgment or order.

Such additional information shall be sent to the Superintendent of the Copying Department by the Superintendent of the Judicial Department along with the judgment.

(8) Such copies shall be given priority over all ordinary copies and shall be prepared as quickly as possible. As soon as copies are ready, the first impression copy shall be delivered to the Law Reporter representing the Indian Law Reports (Rajasthan Series) on his submitting an application for copy to the Superintendent of the Copying Department. Such application shall require no stamps. The remaining copies shall be delivered to the representatives of the other Journals on the approved list on their submitting a duly stamped application and paying the necessary charges as required by the Rules.

(9) If the representative of any Law Journal on the approved list other than the Law Reporter does not apply for any copy of any judgment marked A. F.R. Within ⁴⁵(four) weeks from the date of delivery of such judgment the name of such Journal may be removed from the approved list.

(10) The "Register of Judgments marked A.F.R." shall be open to inspection by the Law Reporter or his clerk or by the representative of any Law Journal on the approved list.

Section L —Miscellaneous

120. Examination of record - Immediately on the receipt of a record, the office shall examine its condition and note on the form for transmission of record received along with the record the date of its receipt and its condition. The record shall thereafter be examined and if on such examination it is found that any paper is missing from the record or is mutilated, or that the record is in any other respect defective, a note thereof shall be made forthwith on the back of the aforesaid form and it shall be laid before the Registrar for such orders as he may deem fit to pass.

121. Receipt of papers filed - Any party to a case or his Advocate desirous of obtaining a receipt for any paper including an application, Vakalatnama or retainer or appearance slip shall attach to and present with such paper a receipt slip in the sub- joined form. The slip shall be signed in acknowledgment of the receipt of such paper by the Bench Reader or other official receiving such paper and returned to the person presenting it.

Description of the cases	Name and description of person filing the paper.	Description of paper	Signature of official receiving the paper and date of receipt

45 : Substituted vide Rajasthan Gazette No. 203 Dated 7.3.53 Part II Page 1929.

122. Transliteration or translation of documents filed in Court -

(1) Where a document filed by a party in court .in any case or proceeding is not in Hindi written in the Devanagri character or in the language of the Court, it shall, subject to any general or special orders of the Chief Justice or the Court, file therewith if the document is in Hindi but is not written in Devanagri character, a transliteration thereof in such character or if the document is in another language, a translation thereof in the language of the Court.

(2) Such transliteration or translation shall be verified to be correct by the Advocate or the party filing it or by the person making it. In the latter case such person shall give his full name and address with such particulars as may be sufficient to identify him and verify such transliteration or translation in the following manner, namely.—

"I (A. B), do declare that I read and understand the language and character of the original and that the above is a true and accurate transliteration/translation thereof."

Such transliteration or translation shall, if so ordered by the Court be revised and certified as correct by a translator on the establishment of the Court.

(3) In lieu of the method indicated in the foregoing sub-rule the party required to file a transliteration or translation of a document may on application to the Registrar have such document transliterated or translated, as the case may be, by a translator on the establishment of the Court and such transliteration or translation certified to be a true transliteration or translation by the Superintendent of the Translation Department may be filed in Court along with the document.

(4) The charges for the transliteration or translation of documents under this Rule shall be such as may be fixed from time to time by Registrar. Where by these Rules a transliteration or translation may be certified as correct by a translator on the establishment of the Court, the person applying for such certificate shall pay such charges as may be prescribed by the Registrar not exceeding sixty per cent of the charges prescribed for the transliteration or translation of such document. If the transliteration or translation is so defective that the work of revising and correcting it practically amounts to transliterating or translating it afresh, the full fee may at the discretion of the Registrar be charged for such work.

123. (1) Inconsistency of any Rule in Parts III, IV, V or VII with any other Rule - Where any rule contained in Part III, IV, V or VII is inconsistent with any rule in any other Part, the former shall prevail and the latter shall, to the extent of such inconsistency, be deemed to have been modified or repealed so far as the former is concerned.

(2) Application of certain Rules in Part II to Parts III to V & VII - Subject to the provisions of sub-rule (1), the Rules contained in Part II shall, so far as may. be and with necessary modifications and adaptations, also apply to proceedings under Parts III, IV, V, and VII.

124. Forms - The forms set forth in Appendix A to these Rules shall with such variations as the circumstances of each case require, be used for the respective purposes indicated therein and in these Rules.

Part II- Civil Jurisdiction

CHAPTER IX

Appeals and Applications

125. General heading of memorandum of appeal or application -

Every memorandum of appeal or objection and every application, other than an application made in any case pending in the Court, shall be in the language of the Court and shall bear the general heading—

"In the High Court of Judicature for Rajasthan".

and shall have written on it immediately below the heading the following, namely:—

(a) in the case of a memorandum of appeal or objection or application for review or revision.	the description such as "First Appeal", "Execution First Appeal", "First Appeal from Order", "Second Appeal", "Execution Second Appeal", "Second Appeal from Order", "Special Appeal", "Civil Revision", or "Application for Review", as the case may be, followed by the section and the Act or the Rule under which it is filed and the words:— "No. of (year)"; and
(b) in the case of other applications.	"Civil Miscellaneous Case No. of (year)" followed by the section and the Act or the Rule under which it is filed.

126. General heading of application in a pending case - Every application made in a case pending in the Court shall be in the language of the Court and shall state the section and the Act or the Rule under which it is made. It shall bear the general heading:—

"In the High Court of Judicature for Rajasthan"

and shall have written on it immediately below such heading the following, namely:—

"Civil Miscellaneous Application No..... of..... in.....(here state particulars of the pending case)"

127. Application to be in writing - Every application for extension of time after time has been granted for depositing security or costs of translation and printing or filing an affidavit or taking any other step for the progress of a case, shall be in writing.

128. Full description of parties - Every person presenting an application or arrayed as an opposite party therein shall be described with such particulars as will ensure his clear identification, such as his full name, the name of his

father, his religious persuasion, his rank or degree in life, his profession, calling, occupation or trade and his true place of residence.

129. Application to be divided into paragraphs - Every application containing a statement of facts shall be divided into paragraphs which shall be numbered consecutively and each paragraph shall, as nearly as may be, be confined to a distinct portion of the subject.

130. Watermarked paper to be used - Every memorandum of appeal or objection or pleading or application required to be in writing shall be fairly and legibly written or type-written, lithographed or printed with quarter margin, on one side only on ⁴⁶(petition paper.)

Provided that the Court may, when considered necessary, permit any other paper of foolscap size or both sides of the paper to be used for the purpose.

131. Contents of memorandum of appeal or application for review or revision - Every memorandum of appeal or application for review or revision shall state.—

- (a) the name and address of each appellant or applicant, and whether he was plaintiff or defendant or applicant or opposite party in the court of first instance;
 - (b) the name and address of each person whom it is proposed to join as respondent or opposite party and whether he was plaintiff or defendant or applicant or opposite party in the court of first instance;
 - (c) the name of the court by which, and the name of the presiding officer by whom, the decree or order objected to was made;
 - (d) the number and description of the case;
 - (e) the date when such decree or order was made;
 - (f) the grounds, numbered consecutively, of objection to such decree or order;
 - (g) the precise relief sought;
 - (h) value for purposes of (1) jurisdiction and (2) court-fee; and
 - (i) in the case of an appeal from an original decree, whether the suit out of which the appeal arises has already been before the Court on appeal, and the particulars of such appeal if any, and shall be signed by the appellant or applicant, as the case may be or, on his behalf, by an Advocate on the roll of the court.
- Where the particulars mentioned in clause (i) are not available at the time of the filing of the appeal they may be supplied as soon as available.

46 : Substituted vide Rajasthan Gazette No. 150, dated 5.2.55, Part IV-C, Page 891.

132. Documents to accompany memorandum of appeal or revision application - ⁴⁷[(1)] Every memorandum of appeal or application for revision shall be accompanied by;—

- (a) a copy of the decree or formal order against which the appeal or application is directed;
- (b) a copy of the judgment upon which such decree or formal order is founded;
- (c) a copy of the judgment of the court of first instance where the appeal or application is directed against an appellate decree or order;
- (d) in the case of a memorandum of appeal which is filed after the expiry of the period of limitation, an application supported by an affidavit for extension of the period of limitation under section 5 of the Indian Limitation Act, 1908:

⁴⁸[Provided that if the copies of the judgments referred to above are hand- written, they shall further be accompanied by uncertified typed copies.]

Provided that the Court may for sufficient cause shown dispense with a copy of the formal order under clause (a) or a copy of the judgment under clause (b) or (c).

⁴⁹[(2) No certified copy of Judgment or order shall be required to be accompanied with any application or proceeding except otherwise specifically provided in these Rules.]

133. Certain grounds in memorandum of appeal to be certified -

If one of the grounds of appeal be that there is no evidence or admission on the record to support the decree, the fact shall be mentioned in the memorandum which shall also state specifically the material finding or findings in support of which there is no evidence or admission on the record.

Such ground shall not be allowed to be urged unless the Advocate for the appellant has certified under his band before the hearing of the appeal that he has examined the record and that the ground is well founded.

⁵⁰[**134. (i) Appeal to the High Court from Judgment of Judges of the Court -** An appeal shall lie to the High Court from the Judgment or a final order (not being a Judgment passed in the exercise of appellate Jurisdiction in respect of a decree or order made in the exercise of appellate Jurisdiction by a Court subject to the superintendence of the High Court and not being an order made in the exercise of revisional Jurisdiction and not being a sentence or order

47 : Numbered vide Rajasthan Gazette Ord. Part 4(C) (i) dated 5.3.87 Page 285.

48 : Added vide Rajasthan Gazette No. 40 dated 31.12.59 Part IV – C, Page 1103.

49 : Inserted vide Rajasthan Gazette Ord. Part 4(C) (i) date 5.3.87 Page 285.

50 : Substituted vide Rajasthan Gazette Part 1 (B) Dated 21.7.2005 Page 50 & Rajasthan Gazette Part 4 (C) Dated 17.8.2005 Page 57-58.

passed or made in the exercise of the power of superintendence or in the exercise of criminal Jurisdiction) of one Judge of the High Court.

(ii) Special appeal - A person desiring to prefer a special appeal from the judgment of the Single Judge shall present a duly stamped memorandum of appeal within sixty days from the date of such judgment. Where such appeal is presented after the period mentioned above, it shall be accompanied by an application supported by an affidavit explaining the cause of delay and it shall be rejected unless the appellant satisfied the court that he had sufficient cause for non preferring the appeal within the aforesaid time.

The memorandum of appeal shall be drawn-up in accordance with Rules 125, 130 and 131 of this Chapter and shall be accompanied by a certified copy of the judgment or order appealed from alongwith two extra typed copies of the judgment or order.]

⁵¹**[135. Memorandum of appeal or objection or application to be accompanied by copies thereof** - (1) Every memorandum of appeal or objection and every application shall be accompanied by typed copies as under :-

(i) two extra copies in a Division Bench case, and one extra copy in every other case, and

(ii) as many further copies as there may be parties to be served.

⁵²{(iii) one extra copy (in addition to i & ii above) in cases of appeals or writs from orders of the Election Tribunals for transmission to the Election Commission.}

It shall be deemed to be sufficient compliance with this rule if the person presenting the memorandum or application gives a written under-taking to supply copies mentioned in clause (ii) above within three days of its admission.]

⁵³{(iv) Two extra typed copies of judgment or order appealed against in a Division Bench case.”}

(2) If the requisite copies are not supplied within such time or within such further time as may, for sufficient cause shown, be allowed by the Registrar, the memorandum or application shall be listed for rejection before the Court.

(3) No order shall issue from the Court on such memorandum or application until the required copies have been supplied.

136. Affidavits to accompany certain applications - (1) The following applications shall be accompanied by an affidavit setting out in the

51 : Substituted vide Rajasthan Gazette No. 45 Dated 6.2.58 Part IV – C at Page 968.

52 : Inserted vide Rajasthan Gazette No. 20 Dated 14.8.58 Part IV – C, Page 783.

53 : Inserted vide Notification No. 4/SRO dated 12.4.65 Published in Raj Gaz Part IV-C 20.5.65 Pg. 106(23 & 24).

form of a narrative the material facts and circumstances including names and dates, where necessary, on which the applicant relies, namely:—

- (i) an application for review made on the ground of the discovery of new and important matter or evidence or any other sufficient reason;
- (ii) an application for stay of execution or proceedings;
- (iii) an application for the vacating of an order for stay;
- (iv) an application for security, including an application under rule 6 or 10 of Order XLI of the Code;
- (v) an application for attachment before judgment or injunction or any other application under Order XXXVIII or XXXIX of the Code;
- (vi) an application for the appointment or discharge of a receiver;
- (vii) an application for the re-admission or restoration of an appeal or application dismissed for default of appearance or for want of prosecution or for the setting aside of an *ex parte* decree;
- (viii) an application for substitution of parties including an application under rule 3 (i) or 4 of order XXII of the Code or for a note to be made on the record that the legal representative of a deceased party is already on the record or that a party has died without leaving any legal representative;
- (ix) an application for the appointment or removal, of a guardian *ad litem* or next friend;
- (x) an application under rule 12, 13, 14 or 15 of order XXXII of the Code;
- (xi) an application for the transfer of a case including an application under section 22 of the Code;
- (xii) an application praying that a person be punished for contempt of Court;
- (xiii) an application by way of complaint against a legal practitioner;
- (xiv) an application under section 5 of the Indian Limitation Act, 1908;
- (xv) an application for the setting aside of an abatement;
- (xvi) any other application setting out facts on the basis of which an order is sought; and,
- (xvii) any application which is required by these Rules or by any other law to be supported by an affidavit.

(2) The Court or the Registrar may call for an affidavit in any other matter coming up before it or him.

137. Affidavit in reply - Any person opposing the grant of an application or showing cause against a rule may bring before the Court any facts or circumstances not contained in the application or affidavit of the other party, by an affidavit containing in the form of a narrative the material facts and circumstances on which he relies.

138. Affidavit in review application - The affidavit accompanying an application for review on the ground of the discovery of new and important matter or evidence shall be made by the applicant himself stating in clear terms what Such new or important matter or evidence is, the effect or purport thereof,

how the same, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or order made and how and when he came to know of it or became able to produce it.

139. Affidavit in an application for stay - The affidavit accompanying an application for stay of execution of or proceedings under a decree or order shall contain such of the following particulars as may be material to such application, namely: —

- (a) the date of the decree or order;
- (b) the particulars and nature of the suit to which the proceedings relate and the court to which the stay order is to be communicated;
- (c) the date of the order for sale, if any;
- (d) the date fixed for the sale, if any,
- (e) the grounds upon which the stay is sought; and
- (f) where stay is sought under rule 5 (i) of Order XLI of the Code, the facts necessary to satisfy the Court as to the matters mentioned in sub-rule (3) of that rule.

140. Advocate's Certificate as to sufficiency of court-fee - Where an application for stay of execution of, or proceedings under, a decree is presented through an Advocate before the admission of the appeal in which the application is made, it shall also bear a certificate of such Advocate stating that to the best of his knowledge and belief the full court-fee payable on the memorandum of appeal has been paid.

141. Affidavit in application for readmission or the setting aside of an *ex parte* decree - (1) The affidavit accompanying an application for the readmission of an appeal or application dismissed for default of appearance, shall state the circumstances in which such default was made, and whether or not the party concerned had, previous to such dismissal, engaged an Advocate to conduct such appeal or application. If an Advocate had been so engaged; the affidavit shall further state, on the personal knowledge of the deponent and not merely on his information and belief, the name of such Advocate, the date when he was engaged, the amount of fee agreed to be paid and whether full fee had been paid to him before the date of Such dismissal.

(2) The provisions contained in sub rule (1) shall with necessary adaptations and modifications apply to an affidavit accompanying an application for the setting aside of an *ex parte* decree or order.

142. Affidavit in application or substitution - The affidavit accompanying an application to bring on record the legal representatives of a deceased party shall state the precise date of the death of the party concerned.

143. Affidavit in application, for appointment of guardian or next friend - (1) The affidavit accompanying an application for the appointment of a guardian *ad litem* or next friend of a minor shall state.—

- (a) whether or not the minor has a guardian appointed under the Guardians and Wards Act, and if so, his name and address;
- (b) the name and address of the father or other natural guardian of the minor;
- (c) the name and address of the person in whose care the minor is living;
- (d) how the person sought to be appointed guardian or next friend is related to the minor;
- (e) that the person sought to be appointed guardian or next friend has no interest in the matters in controversy in the case adverse to that of the minor and that he is a fit person to be so appointed; and
- (f) whether the minor is less than ten years of age.

(2) The provisions contained in sub rule (1) shall apply *mutatis mutandis* to an affidavit accompanying an application for appointment of a guardian *ad litem* or next friend of a person of unsound mind.

144. Prayer for an order of inter-locutory nature - A prayer for stay of execution or proceedings or for the vacating of an order staying execution or for admitting additional evidence, or for any other order of an interlocutory nature shall not be contained in the memorandum of appeal or the application for revision to which it relates, but shall be made by a separate application.

145. Defective application or memorandum of appeal or objection may not be received - No application or memorandum of appeal or objection shall be received if it is not in the proper form or is not accompanied by the necessary documents:

Provided that the Registrar, may receive it and for sufficient cause shown, grant such time as he may consider proper for supplying such documents or removing such defects: and

Provided further that nothing done under the first proviso shall have the effect of extending the period of limitation in the case of a memorandum of appeal where the copy of the judgment or decree or formal order is not filed within the prescribed time.

If the required documents are not supplied or the defects are not removed within the time allowed by the Registrar, the application or memorandum of appeal shall be listed for rejection before the Court.

⁵⁴[**145-A.** An application or petition, not being an application for a copy or an application for information, 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 or petition; otherwise it shall be filed in a file-book.]

146. Certain copies not to be returned - No copy of a judgment, decree or formal order accompanying a memorandum of appeal or an application for revision shall be returned unless such memorandum or application itself is ordered to be returned.

CHAPTER X

Appeal or Application by or against Legal Representative Assignee etc.

147. Appeal by legal representative, assignee etc - Where by a decree or order which is appealable to the Court, the interest of—

- (a) a legal representative as such of a deceased party to such decree or order, or
 - (b) an assignee of a party to such decree or order by assignment subsequent to the date of the decree or order, or
 - (c) a beneficiary in such property as was, at the date of such decree or order, vested in, or in the possession of a trustee, executor or administrator or a receiver or manager appointed by a court, who as such was a party to such decree or order, or
 - (d) a person whose interest arose after the date of such decree or order by reason of any creation or devolution of interest by, through, or from any party to such decree or order,
- is affected, and such legal representative, assignee, beneficiary or person desires to appeal therefrom, he may name himself in the memorandum of appeal as an appellant.

He shall also present along with such memorandum of appeal an application for leave to make himself an appellant, accompanied by an affidavit stating such facts as may be necessary to support his application:

Provided that no such application shall be required if such legal representative, assignee, beneficiary or person, has already been made a party to any proceeding under the decree or order appealed from subsequent to the date on which it was passed. In such case a note to that effect shall be made in memorandum of appeal.

148. Appeal against legal representative of deceased party - Where a person has died after the date of appealable decree or order to which he was a party, any other party to the decree or order who wishes to appeal therefrom may enter the name of the legal representative of the person who has died, in the memorandum of appeal as a respondent if that person would, if alive, have been a necessary or proper party to the appeal. The appellant shall also present along with his memorandum of appeal an application for leave to make such legal representative a respondent to the appeal, accompanied by an affidavit stating such facts as may be necessary to support his application:

Provided that no such application shall be required if such legal representative has already been made a party to any proceeding under the decree or order subsequent to the date on which it was passed. In such case a note to that effect shall be made in the memorandum of appeal.

149. Appointment of legal representative of deceased party after the filing of the appeal - Where after a memorandum of appeal has been presented to the Court, any appellant or any party interested in the maintenance of an objection filed under rule 22 of Order XLI of the Code, is informed that any person who is arrayed as a party in such appeal or objection had died, before the memorandum of appeal was presented but after the decree or order appealed from was passed, he may subject to the law of limitation make an application for an order that the memorandum of appeal be amended by substituting for the person who is dead, his legal representative. The application shall be accompanied by an affidavit stating such facts as may be necessary to support the application.

150. Death of party after hearing but before judgment - For the purposes of Rules 147, 148 and 149 a person who died after the conclusion of the hearing but before the pronouncement of the judgment or order appealed from shall be deemed to have died after the date of the decree or order.

151. Time may be allowed for filing an affidavit - (a) When an application is presented under Rule 147, 148 or 149 without an affidavit, the Registrar may allow reasonable time for the presentation of such affidavit, if he is satisfied that the applicant could not by the exercise of due diligence have procured it in time for presentation along with the application.

(b) Where the required affidavit is not presented within the time allowed by the Registrar, the application shall be listed for rejection before the Court.

152. Substitution to operate in respect of all future proceedings in the case - Where the legal representative of a deceased party has been brought on the record on an application under Rule 147, 148 or 149, such substitution shall operate in respect of all future proceedings in the case.

153. Special Appeals and applications for review and revision - Rules 147 to 152 shall, with necessary modifications and adaptations, also apply to Special Appeals and applications for review and revision.

CHAPTER XI

Presentation of Appeals and Applications

154. Presentation of petition and memoranda of appeals etc.-

Memoranda of appeal, memoranda of objection under Order XLI, rules 22 and 26, Code of Civil Procedure, and petitions shall be presented to the official appointed for the purpose by the Registrar who shall immediately fix a date not more than a week ahead. On that date the party filing the memorandum or petition, or his counsel, should attend in office to ascertain the progress of the matter. The official concerned shall in the interval examine the memorandum or petition with a view to seeing whether it is in order, properly stamped and within time and submit the result in the prescribed form to the Registrar.

⁵⁵[**154-A Acknowledgment Receipt** - Petitioner/applicant may, if he wishes, attach to and present with his petition/ application/ P.F. And notices/ Vakalatnama/ Power of Attorney or Memo of Appearance or any miscellaneous application, an acknowledgment receipt in Form No. 11 of Appendix 1 Part II of Rajasthan High Court Rules. If this is done, the receipt shall be signed in taken of the receipt of the petition/application etc. by the receiving clerk/official appointed for the purpose and returned to the petitioner/ applicant without any delay.]

⁵⁶[**155. Institution of cases** - All such memoranda and petitions shall, after presentation, be registered in the Register concerned as provided in Rule 850 in the following manner :-

1. Instituted without defect.
2. Instituted with defect D.
3. Instituted subject to Limitation (L)]

156. Dispensing with the production of copy of Judgment.- If it is desired that a copy of any judgment or formal order required to be filed along with a memorandum of appeal ⁵⁷(or petition) presented under ⁵⁸(rule 154) be dispensed with, a note to that effect shall be made on the memorandum. ⁵⁹(or petition, as the case may be.) If no such note is made, a subsequent request for that purpose shall not be entertained. Where such note has been made, the Registrar shall pass suitable orders.

⁵⁵ : Inserted vide Rajasthan Gazette Part 1 (B) dated 2.10.97 Page 59.

⁵⁶ : Substituted vide Notification No. 4/SRO/2011 dated 6.9.11 pub. In Rajasthan Gazette EO Part 1 (B) dated 9.9.11 Page 311.

⁵⁷ : Added & Subs. Vide Notification No. 3/SRO dated 5.9.72 & Rajasthan Gazette Part IV- C dated 11.1.73 page 308(46).

⁵⁸ : Added & Subs. Vide Notification No. 3/SRO dated 5.9.72 & Rajasthan Gazette Part IV- C dated 11.1.73 page 308(46).

⁵⁹ ; Added & Subs. Vide Notification No. 3/SRO dated 5.9.72 & Rajasthan Gazette Part IV- C dated 11.1.73 page 308(46).

If such copy is not dispensed with, the period between the day on which the appeal ⁶⁰(or petition) was presented and the day on which the order is made shall not be excluded in computing the period of limitation for the appeal ⁶¹(or petition) unless the court on an application received under section 5 of the Limitation Act otherwise direct, but if the copy is dispensed with, the appeal ⁶²(or petition) shall be deemed to have been duly presented on the day on which it was filed.

157. (1) Counsel to be informed of defect - If a memorandum of appeal or objection ⁶³(or petition) presented under Rule 154 is reported to be defective in any way, the office report shall be shown without delay to the advocate of the appellant or objector ⁶⁴(or petitioner), as the case may be, and the latter shall initial it at once in token of his having been informed of such defect.

(2) Time for filing objection to office report - If the office report is contested, such advocate shall file his objection within seven days and the objection along with the report shall be listed immediately for orders before the Registrar. If the Registrar allows the objection, he shall proceed to deal with such appeal or objection ⁶⁵(or petition) as if it has been reported to be in order.

(3) If the office report is not contested or no objection is filed within the aforesaid period or if an objection is filed and rejected by the Registrar, the defect shall be removed within two weeks from the day on which the report was shown to such advocate or the day on which the objection was rejected, as the case may be, or within such further time ⁶⁶(“not exceeding a total period of three months,”) as the Registrar may allow. If such defect is not removed within such time, the memorandum ⁶⁷(“or petition, as the case may be,”) shall be listed for rejection before the Court and shall be rejected unless the Court on a written application supported by an affidavit deems fit to grant further time for the removal of such defect:

Provided that no order passed under the provisions of this Rule shall be deemed to extend the period of limitation.

158. Issue of Notice by Registrar in certain cases - First appeals under section 18 of the Rajasthan High Court Ordinance, and references under subsections

(1) and (2) of section 66 of the Indian Income-tax Act, if found in order, shall be submitted to the Registrar for an order for the issue of notice for hearing parties.

60 : Added vide Notification No. 3/SRO dated 5.9.72 & Rajasthan Gazette Part IV- C dated 11.1.73 page 308(46)

61 : Added vide Notification No. 3/SRO dated 5.9.72 & Rajasthan Gazette Part IV- C dated 11.1.73 page 308(46)

62 : Added vide Notification No. 3/SRO dated 5.9.72 & Rajasthan Gazette Part IV- C dated 11.1.73 page 308(46)

63 : Added vide Notification No. 3/SRO dated 5.9.72 & Rajasthan Gazette Part IV- C dated 11.1.73 page 308(46)

64 : Added vide Notification No. 3/SRO dated 5.9.72 & Rajasthan Gazette Part IV- C dated 11.1.73 page 308(46)

65 : Added vide Notification No. 3/SRO dated 5.9.72 & Rajasthan Gazette Part IV- C dated 11.1.73 page 308(46)

66 : Added vide Notification No. 3/SRO dated 5.9.72 & Rajasthan Gazette Part IV- C dated 11.1.73 page 308(46)

67 : Added vide Notification No. 3/SRO dated 5.9.72 & Rajasthan Gazette Part IV- C dated 11.1.73 page 308(46)

159. Hearing by bench - ⁶⁸{(1)} In the case of appeals, petitions and applications other than those dealt with under rule 158, the Registrar shall fix a date for hearing by the appropriate Bench. Intimation of the date shall be given to the party or his counsel and his signature taken on the order sheet in token of receipt of intimation.

⁶⁹[(2) Unless a caveat as provided in sub-rule (3) has been lodged by the other parties who appeared in the court below, such appeals, petitions and applications shall be heard ex-parte, but the Court, if it thinks fit, may direct issue of notice to the respondent and adjourn the hearing of the appeal, petition or application, as the case may be :

Provided that where an appeal, petition or application has been filed beyond the period of limitation prescribed therefore and is accompanied by an application for condonation of delay, the Court shall not condone the delay without notice to the respondent.

(3) Where an appeal, petition or application is expected to be lodged, or has been lodged but is pending admission, any person claiming a right to appear before the Court on the hearing of such appeal, petition or application may lodge a caveat in the matter thereof, and shall thereupon be entitled to receive from the Registrar notice of the lodging of the appeal, petition or application if at the time of the lodging of the caveat such appeal, petition or application has not yet been lodged, and if and when the appeal, petition or application has been lodged, to require the appellant, petitioner or applicant to serve him with copy of the appeal ,petition or application and to furnish him at his own expense, with copies of any papers lodged by the appellant, petitioner or applicant, in support of his appeal, petition or application. The caveator shall forthwith, after lodging his caveat, give notice thereof to the appellant, petitioner or applicant, as the case may be, if the appeal, petition or application has been lodged.

(4) Where a caveat has been lodged as aforesaid, notice of the hearing of the appeal, petition or application shall be given to the caveator, but a caveator shall not be entitled to costs of the appeal, petition or application unless the Court otherwise orders.”]

160. Calling of record - The record of the case shall be sent for when an appeal is admitted, or when the Court otherwise orders that the record be called for.

161. Petitions for expedition disposal - If a party desires any particular petition or application to be disposed of expeditiously, he should present a separate stamped petition in that behalf and the urgent petition or application will thereupon be placed by the Registrar before the Court as early as possible.

162. Petitions for stay of execution - Petitions for stay of execution unless accompanied by a petition for urgent disposal under rule 161 above will be put up with the case on the date fixed for the admission of the case:

68 : Numbered vide Rajasthan Gazette Part 4-C dated 28.12.72 Page 708(14).

69 : Added vide Rajasthan Gazette Part 4-C dated 28.12.72 Page 708(14).

Provided that petitions for stay of execution filed in appeals under section 47, Civil Procedure Code, which are to be heard by a Division Bench, shall be placed before a Single Bench which shall dispose of the petitions for stay of execution only.

CHAPTER XII

Service of Notice and Summoning of Record

163. Issue of notice and requisition for record - Where an order has been made directing notice of an appeal, revision or reference to issue, the office shall take immediate steps to cause notice thereof to be served on such persons as are indicated in rule 171 and shall also give notice thereof to the court from whose decree or order the appeal or revision has been presented or by which the reference has been made.

The office shall, if not directed otherwise, also send a requisition to such court asking it to transmit within ten days of the receipt of such requisition all material papers of the case or, if so directed, a part thereof, unless such record has already been received.

164. When record not to be summoned at once - Where a record is required from a subordinate court in an appeal or revision from an interlocutory order while proceedings in the case are pending in that court, it shall not be sent for at once and only information of the fact that all material papers in the case would be sent for when actually required shall be sent, and that court shall submit the record immediately on receipt of intimation that the appeal or revision is ready for hearing.

In case such record is requisitioned at the special request of a party, it shall be sent back to the court concerned as soon as possible and recalled only when the appeal or revision is ready for hearing.

A case shall not be listed for hearing before the expiry of two months after the receipt of the record under this and the next preceding Rule.

165. No notice to be issued or record to be summoned unless requisite process fee or cost is paid and notices supplied - Notwithstanding anything contained in the foregoing Rules, no notice shall be issued in a case in which process fee or cost of issuing notice is leviable, unless the requisite process-fee or cost has been paid and notices in duplicate in the prescribed form duly filled in, have been supplied for service, within ⁷⁰(fifteen) days from the date on which the order for the issue of notice is made, or unless such fee or cost has been paid and such notices have been supplied under the next following Rule and the court has condoned the delay.

70 : Substituted vide Rajasthan Gazette No. 65 dated 5.11.55 part IV – C, Page 413.

166. Effect of non-payment of process fee or cost of supply of notices within time - If the requisite process fee or cost of issuing notice is not paid or the requisite notices are not supplied within the time prescribed in rule 165, the appeal, or application, as the case may be, shall be listed before the Court for dismissal and shall be dismissed unless on case being called, an application signed by the party or his advocate or brief holder together with the requisite process fee, cost or notices, as the case may be, is presented to the Court for condonation of delay and the Court deems fit to grant it.

167. No party entitled to summon record without payment of requisite costs - Except as provided in rules 163 and 164, no record shall be summoned from another court at the instance of a party unless the cost of summoning such record, if any, has been previously paid by such party.

168. Objection as to the amount of process fee etc. to be decided by the Registrar - Where objection is taken as to the correctness of the amount of process fee or cost of issuing notice or of summoning a record demanded by the office, the Advocate concerned or his clerk shall immediately bring the matter to the notice of the Registrar who shall decide such objection forthwith.

169. Contents of notice - The notice of an interlocutory application or an application for review shall be to appear and show cause why the application be not granted and the notice of an appeal, reference, or application shall be to appear and answer such appeal, reference or application. The date for appearance shall be fixed with due regard to the current business of the Court, the place of residence of the person to be served, the time required for service and the time necessary for entering appearance after service of notice has been effected.

Every notice shall be in the prescribed form.

170. Particulars to be noted in the notice by party - All the required particulars except the date fixed for appearance and the date of issue of notice shall be legibly entered in every notice before it is supplied to the office. Where there is a registered address, such address alone shall be entered followed by the letters 'R. A.' in red ink or red chalk. Where no such address exists, the fact shall be clearly indicated in the notice.

171. Persons to whom notice shall go - Unless otherwise ordered:—

- (a) notice of an appeal shall be issued to all respondents and proposed respondents;
- (b) notice of an application in revision shall be issued to all opposite parties or proposed opposite parties;
- (c) notice of a reference shall be issued to all parties to the case;
- (d) notice of an interlocutory application shall be issued to all parties to the case other than the applicant provided that no notice or such application shall be issued to a person who has not filed a registered address and who is not represented in this Court by an Advocate;
- (e) notice of an application for appointment of a guardian shall also be issued to-
 - (i) the proposed guardian,
 - (ii) the minor, if he is not less than ten years of age, and
 - (iii) the natural guardian of the minor;
- (f) notice of an application for the removal of a guardian shall also be issued to —
 - (i) the guardian sought to be removed,
 - (ii) the proposed guardian, and
 - (iii) the minor, if he is not less than ten years of age;
- (g) notice of an application for the transfer of a case shall be issued to all parties to the proceeding sought to be transferred, other, than the applicant;
- (h) no notice of any proceeding, relating to a Supreme Court Appeal shall be issued to any person who is not proposed to be made a respondent to such appeal;
- (i) no notice of an application for stay of execution shall be issued to any judgment debtor; and
- (j) no notice of an application for injunction shall be issued to any person other than the person sought to be restrained.

172. Service of notice - The provisions of Order V of the Code shall apply to the service of notice in all proceedings in this Court:

Provided that.—

- (a) where a party is represented by an Advocate, notice of any proceeding in the case shall, unless ordered otherwise, be served on such Advocate;
- (b) notice to a person residing in a presidency town or notice of an interlocutory application may be sent by registered post;
- (c) where the Registrar or the Court directs that a notice be served in a particular manner, it shall, notwithstanding anything contained in this Rule, be served in such manner.

173. Application for summoning record, register or document -

Any party desiring to summon a record, register or document from a court or office shall make an application to the Registrar for that purpose. Such application shall.—

- (a) be signed by the party or his Advocate;
- (b) be accompanied by a statement signed by the Advocate stating—
 - (i) that such record, register or document was before the lower court and that in his opinion the summoning thereof is necessary for supporting or opposing the appeal or other proceeding in which the application is made, or
 - (ii) that the record, register or document was not before the lower court and giving reasons why it is necessary to summon it; and
- (c) contain all such particulars as may be necessary to enable such record, register or document to be summoned, including:—
 - (i) the name of the court or the office from where the record, register or document is to be summoned;
 - (ii) the description of such record, register or document;
 - (iii) in the case of a register or document, the language in which such register or document is written and the date and the year, if any, which it bears;
 - (iv) in the case of a register or document forming part of any record, the date on which such register or document was filed and a description of such record including the date of decision, if any, and
 - (v) where the record desired to be summoned is the record of a decided case, the date when the case was decided:

Provided that the Registrar, if otherwise satisfied that the summoning of a record, register or document is necessary, may dispense with the statement mentioned in clause (b), or if not satisfied by such statement that a record, register or document is relevant or material, may before summoning it, require an affidavit, stating clearly how it is relevant or material: and

Provided further that the Court may at any stage of the proceeding, if satisfied that the summoning of a record, register or document is necessary, dispense with such application or statement.

174. Deposit of cost for summoning record, register or document

- No requisition for a record, register or document ordered to be summoned at the expense of a party, shall be issued by the office, unless the cost of summoning it and, if the record ordered to be summoned includes registers or account books, an equivalent additional sum in respect of each such register or account book, is deposited as cost with the cashier:

Provided that if the party at whose expense a record has been ordered to be summoned deposits only the cost of summoning the record and does not specify in his application the registers or the account books to be summoned, only the record without such registers and account books shall be sent for.

CHAPTER XIII

Paper book in First Appeal

⁷¹[**175. Interpretation** - In this Chapter, unless the context otherwise requires-

- (a) “Necessary papers” mean papers mentioned in clauses (a) to (g) of rule 176;
- (b) “Application for Paper Book” means an application by a party made with a view to certain papers being copies and typed in accordance with the rules contained in this Chapter;
- (c) “First Appeal” does not include an Execution First Appeal.

176. Paper Book in First Appeal - (1) The Paper book in a First Appeal shall ⁷²(“if required”), consist of a fly sheet, an index and copies of the following papers, namely :-

- (a) plaint;
- (b) written statement;
- (c) further pleadings, if any;
- (d) statements of parties or their pleaders recorded under rules 1 and 2 of Order X of the Code;
- (e) judgment under appeal;
- (f) decree under appeal;
- (g) memorandum of appeal;
- (h) such evidence, oral or documentary or other papers as the appellant may wish to refer to;
- (i) memorandum of cross-objection, if any; and
- (j) such other evidence, oral or documentary or other papers as the respondent may wish to refer to.]

⁷³{(2) Unless otherwise ordered, no paper book shall be required in first appeal to be heard by a single judge.}

⁷⁴**177. Paper Book to be type-written** - The paper book in the first appeal shall ordinarily be type-written.

⁷⁵**178. When preparation of paper book to be undertaken** - The preparation of a paper book under this Chapter shall not be undertaken unless:-

- (a) the appellant has made an application for paper book; or
- (b) where the appeal has been dismissed but the cross-objection, if any, subsists, the respondent filing the cross-objection has made an application for paper book.

⁷¹ : Substituted vide Rajasthan Gazette Part IV-C dated 17.12.70 pg 470 to 479.

⁷² : Inserted vide Notification No. 6/SRO/2009 dated 15.10.2009- Raj. Gaz., Pt. I-B, dt. 29.10.2009, p. 111.

⁷³ : Substituted vide Notification No. 6/SRO/2009 dated 15.10.2009- Raj. Gaz., Pt. I-B, dt. 29.10.2009, p. 111.

⁷⁴ : Substituted vide Rajasthan Gazette Part IV-C dated 17.12.70 pg 470 to 479.

⁷⁵ : Substituted vide Rajasthan Gazette Part IV-C dated 17.12.70 pg 470 to 479.

⁷⁶179. No Paper to be included in paper book without application - Unless otherwise ordered, no paper shall be copied or typed for inclusion in the paper book under this Chapter except on an application by a party to the appeal.

⁷⁷180. Appellant to include in his application all papers he may wish to refer to - It shall be the duty of the appellant to apply for the copying and typing of all the evidence and papers, whether produced by him or by the respondent, to which he wishes to refer at the hearing either for the purpose of showing that the decision appealed against is erroneous or for the purpose of supporting his case.

⁷⁸181. Notice of receipt of record - (1) The Deputy Registrar shall, as soon as possible after the record in a First Appeal has been received, exhibit a notice of its receipt in the Day's List on two consecutive working days:

Provided that in the case of an appeal which may be summarily determined under rule 111 of Chapter VIII, no such notice shall be exhibited until the time for the making of an application for its summary disposal has expired or, where an application for such summary disposal has been made, unless such application has been rejected.

(2) The Deputy Registrar shall keep a record of the dates on which such notice was exhibited in the Day's List.

(3) The Deputy Registrar shall also cause to be exhibited on the notice board for thirty consecutive days commencing from the date when the notice was first exhibited in the Day's List, a notice stating that the record has been received.

⁷⁹182. Time allowed for making application for paper book - The following times are prescribed for the making of an application for paper book, namely :-

(a) for an application by the appellant, thirty days from the date when notice of the receipt of record is first published in the Day's List and exhibited on the notice board;

(b) for an application by the respondent, thirty days from the date when he is served with notice of the appeal, or ten days from the date fixed for entering appearance or ten days from the date on which the appellant files his first application for paper book whichever is the latest;

⁷⁶ : Substituted vide Rajasthan Gazette Part IV-C dated 17.12.70 pg 470 to 479.

⁷⁷ : Substituted vide Rajasthan Gazette Part IV-C dated 17.12.70 pg 470 to 479.

⁷⁸ : Substituted vide Rajasthan Gazette Part IV-C dated 17.12.70 pg 470 to 479.

⁷⁹ : Substituted vide Rajasthan Gazette Part IV-C dated 17.12.70 pg 470 to 479.

(c) for an application by the respondent where an appeal is dismissed for want of prosecution but the cross objection subsists, thirty days from the date on which the appeal is so dismissed;

Provided that where no application for paper book has been made within the prescribed time, the Registrar may, on an application made in this behalf, if satisfied by affidavit or otherwise that an application for paper book could not be made within the prescribed time, grant further time for the making of such application or, if an application for paper book has already been made, condone the delay in the making of such application. Such application shall be deemed to have been made within the prescribed time.

⁸⁰183. Application for copying and typing to be made within the prescribed period - (1) The appellant shall apply for the copying and typing of necessary papers within the prescribed time.

(2) The respondent shall apply for the copying and typing of the memorandum of cross-objection and where an appeal has been dismissed under the next following Rule, also for the copying and typing of the papers mentioned in clauses (a) to (f) of rule 176 within the prescribed time.

(3) Except as provided in rule 211, the cost of copying and typing any paper other than the necessary papers or the memorandum of cross-objection shall not be taxed as costs and the hearing of the appeal shall not be deferred unless the application for the copying and typing of such paper was made within the prescribed time. A party may either include such paper in the application under sub-rule (1) or (2) or make a separate application for the purpose within the prescribed time.

⁸¹184. Appeal or cross-objection to be dismissed if no application made within the prescribed time - Where the appellant fails to make an application as required by sub-rule (1) of rule 183 or the respondent fails to make an application as required by sub-rule (2) of that rule, or the appellant or the respondent fails to make the necessary correction in the description of any paper mentioned in clauses (a) to (g) or (i), as the case may be, of rule 176 when so required by the Editor, the appeal or the cross objection, as the case may be, shall be listed for dismissal before the Court and shall be dismissed unless on an application in writing made in this behalf, the Court for sufficient cause shown grants further time for the making of such application or correction. An application for copying and typing made within the time so allowed by the Court shall be deemed to have been made within the prescribed time.

⁸²185. Application after the prescribed time - Subject to the provisions of rule 183 (3), a party may apply for the copying and typing of any

80 : Substituted vide Rajasthan Gazette Part IV-C dated 17.12.70 pg 470 to 479.

81 : Substituted vide Rajasthan Gazette Part IV-C dated 17.12.70 pg 470 to 479.

82 : Substituted vide Rajasthan Gazette Part IV-C dated 17.12.70 pg 470 to 479.

paper other than the necessary papers or the memorandum of cross-objection even after the prescribed time.

⁸³**186. Initial deposit** - Before an application for paper book is made under these Rules, the applicant shall make an initial deposit of ⁸⁴(one hundred fifty) rupees:

Provided that where an application is made under rule 185 or Rule 211 of this Chapter, an initial deposit of only ⁸⁵(thirty) rupees shall be required.

⁸⁶**187. Form and contents of application - (1)** Every application for paper book shall

(a) be on the prescribed form;

(b) be content all the necessary particulars as indicated in the form, care being taken to insert the full name and addresses of the person to whom the estimate of cost or any demand subsequently arising in connection with the copying and typing of the papers mentioned in the application may be sent;

(c) be signed and dated by the applicant or his advocate; and

(d) specify at the appropriate place in the application the rule under which it is made and the particulars of all previous application for copying and typing made by the applicant in the appeal.

(2) If the space indicated in clause (d) of sub-rule (1) is not sufficient for entering the particulars of previous applications, such particulars shall be entered on a separate seat of Government watermarked paper appended to the application, it being endorse on the application that further particulars are entered on such separate seat of papers. Where no previous application was made the words “No previous application”, shall be written at the place indicated above.

⁸⁷**188. Presentation of application for paper book** - Before an application for paper book is presented, the applicant shall obtain thereon an endorsement by the Deputy Registrar specifying the amount of initial deposit required. The applicant shall then make the necessary deposit and the cashier shall make an entry on the application that such deposit has been made. The applicant shall then present the application to the Deputy Registrar who may not receive it unless it is in accordance with the last preceding rule, provided that it

83 : Substituted vide Rajasthan Gazette Part IV-C dated 17.12.70 pg 470 to 479.

84 : Substituted vide Rajasthan Gazette Part 1 (B) Dated 16.4.92 Page 47.

85 : Substituted vide Rajasthan Gazette Part 1 (B) Dated 16.4.92 Page 47.

86 : Substituted vide Rajasthan Gazette Part IV-C dated 17.12.70 pg 470 to 479.

87 : Substituted vide Rajasthan Gazette Part IV-C dated 17.12.70 pg 470 to 479.

shall not be necessary to check the correctness of the particulars of the papers mentioned therein until it has been put before the Editor.

⁸⁸**189. Amendment of Application** - An application purporting to be an application for copying and typing under rule 183 shall not be allowed to be amended either by the addition of any new papers or by the substitution of any papers for those mentioned therein except with the consent of the parties who have put in an appearance in the case. The Editor may, however, allow the deletion of any papers other than the necessary papers or the memorandum of cross-objection and shall give notice to the other party of such deletion. The other party shall have the right to apply for the copying and typing of such papers within two weeks from the date of receipt of such notice. Such application shall be deemed to have been made within the prescribed time.

⁸⁹**190. Scrutiny by Editor - (1)** Every application for copying and typing made within the prescribed time shall be laid for scrutiny before the Editor who shall -

- (a) examine the descriptions of the paper desired to be copied and typed and have all misdescriptions corrected and full descriptions inserted where such descriptions are incomplete, and
- (b) determine what papers shall be copied and typed and if he considers that any paper should not be copied and typed in its entirety, determine what portion or portions of such paper shall be copied and typed.

(2) If any party fails to remove the defects pointed out by the Editor in the description of any paper other than a paper mentioned in clauses (a) to (g) or (i) of Rule 176 at the time when the Editor brings the defects to his notice or within such further time as the Editor may allow, the Editor shall delete such paper from the application under his signature giving his reasons for such deletion and shall give notice thereof to the other party. The other party shall in such cases have the right to apply for the copying and typing of such paper within two weeks of the date of receipt of such notice. Such application shall be deemed to have been made within the prescribed time.

⁹⁰**191. Instructions for the guidance of the Editor** - The Editor shall be guided by the following instructions, namely :-

- (a) All evidence and documents not relevant to the subject matter of the appeal and documents not proved or not forming party of the record should be excluded and every effort should be made to reduce the bulk of the paper book.

88 : Substituted vide Rajasthan Gazette Part IV-C dated 17.12.70 pg 470 to 479.

89 : Substituted vide Rajasthan Gazette Part IV-C dated 17.12.70 pg 470 to 479.

90 : Substituted vide Rajasthan Gazette Part IV-C dated 17.12.70 pg 470 to 479.

(b) Duplication of document and unnecessary repetition of headings, and other formal parts of documents should be avoided.

(c) Long series of document, such as accounts, rent rolls, inventories, etc. should not be copied and typed in full, unless absolutely necessary. Parties should be asked to agree, if possible to the copying and typing of short extracts or specimens only.

(d) if more appeals than one have been preferred from the same decree, the same evidence or document shall not be included in more than one paper book.

(e) Where more than one party have applied for the copying and typing of the same paper or where there are more appeals than one from the same decree in which applications for the copying and typing of the same paper have been made, such paper shall be copied and typed in pursuance of the earliest application only.

(f) Where there has been a previous appeal to this Court arising out of the same suit, every paper translated, printed, copied or typed in the previous appeal shall be excluded from the paper book in the subsequent appeal, provided that a sufficient number of copies of the paper book of the previous appeal is available for the use of the Judges and the parties.

The fact that there has been such previous appeal shall be stated by the appellant in the memorandum of appeal and the Editor shall ascertain from the office if a sufficient number of copies of the paper book of that appeal is available before he decides whether such paper shall be copied and typed or not.

(g) Except as provided above and in so far as the Editor may for sufficient cause shown direct, a part only of a document shall not be copied and typed.

(h) Such of the paper book referred to in clause (f) as are available in the office shall not be returned until the appeal has been disposed of.

⁹¹**192. Editor's decision revisable by Registrar** - Every decision of the Editor shall be subject to revision by the Registrar on an application by the aggrieved party and, subject to the provisions of rule 194 below, the decision of the Registrar shall be final.

⁹²**193. List of excluded papers to form part of the paper book** - A type-written list of the papers excluded by the Editor or the Registrar from the list of papers to be copied and typed shall form part of the paper book.

⁹¹ : Substituted vide Rajasthan Gazette Part IV-C dated 17.12.70 pg 470 to 479.

⁹² : Substituted vide Rajasthan Gazette Part IV-C dated 17.12.70 pg 470 to 479.

⁹³& ⁹⁴**194. Typed copies of excluded papers may be filed - (1)** It shall be open to the party aggrieved by an order of the Registrar excluding any paper to provide for the use of the judges at the time of hearing, typed or printed copies, certified to be correct by the Advocate of the party supplying them, of such excluded papers on which he relies , after previously serving such copies on the opposite party. Copies shall be served on the opposite party and filed in Court within a week of the first appearance of the case in the list of ready cases. In such case it shall be in the discretion of the Judges hearing the appeal to take such evidence into consideration or not.

⁹⁵& ⁹⁶**(2)** Subject to the provisions of sub-rule (1), no paper which does not form part of the paper book shall be referred to at the hearing by any party, without the special permission of the bench hearing the appeal, provided that in all cases the party has supplied for the use of the Judges at the time of hearing typed or printed copies certified to be correct by the Advocate of the party supplying them and has also previously served such copies on the opposite party in the manner stated in sub-rule (1).

⁹⁷**195. Registrar's order for copying and typing -** No paper shall be copied and typed on an application for paper book without an order from the Registrar to that effect. With respect to papers included in an application under rule 183 such order shall be made immediately after the list of papers to be copied and typed has been settled by the Editor and, where any objection is made to the list so settled, immediately after the objection has been decided by the Registrar, and with respect to papers included in an application under any other Rule, on the making of such application.

⁹⁸**196. Preparation of estimate -** As soon as an order has been made under the next preceding Rule, the Deputy Registrar shall forthwith cause to be prepared an estimate of the cost of counting, copying, typing and indexing and all such miscellaneous costs as may have to be incurred in getting the papers copied and typed. The estimate shall also include the Editor's fee, where chargeable and the cost of despatching a copy of the estimate to the address given in the application for paper book. In the estimate, credit shall be given for any initial deposit already made.

A separate estimate shall be prepared in respect of each separate application for copying and typing.

⁹⁹**197. When Editor's fee not to be charged -** Editor's fee shall not be charged –

93 : Renumbered vide Raj. Gaz. No.143 dt. 22.1.1955 Pt. IV- C, pg.858

94 : Substituted vide Rajasthan Gazette Part IV-C dated 17.12.70 pg 470 to 479.

95 : Added vide Raj. Gaz. No.143 dt. 22.1.1955 Pt. IV-C, pg.858

96 : Substituted vide Rajasthan Gazette Part IV-C dated 17.12.70 pg 470 to 479.

97 : Substituted vide Rajasthan Gazette Part IV-C dated 17.12.70 pg 470 to 479.

98 : Substituted vide Rajasthan Gazette Part IV-C dated 17.12.70 pg 470 to 479.

99 : Substituted vide Rajasthan Gazette Part IV-C dated 17.12.70 pg 470 to 479.

- (a) where an application for copying and typing is not one under rule 183; or
- (b) where an application although made under rule 183, is only for the copying and typing of the necessary papers or the cross objection; or
- (c) from any party who may have been exempted from the payment of such fee by the Chief Justice.

¹⁰⁰**198. Estimate to be prepared according to rates in Schedule -** The estimate shall be prepared according to the rates given in the Schedule to this Chapter. The rates given therein shall be liable to alteration from time to time under the orders of the Chief Justice.

¹⁰¹**199. Details of estimate and actual cost to be entered on application -** The details of the estimate shall be entered in the appropriate place on the application for paper book, and on the same application shall be entered later an account of the cost actually incurred under different heads.

¹⁰²**200. Form of estimate -** The estimate shall –

- (a) be prepared on the prescribed form;
- (b) have printed on it in Hindi, a copy of rules 201, 204 and 205 of this Chapter;
- (c) bear the date when it is delivered to the post office under rule 203 for despatch; and
- (d) exhibit separately the amounts of the two installments in which the entire estimated amount shall be payable.

¹⁰³**201. Time for depositing first and second instalments -** The first instalment shall consist of the estimated cost of editing, counting, indexing and copying map work and other miscellaneous charges, if any, and shall be payable within thirty days of the date of the estimate or within such further time as the Registrar may, on an application having been presented within thirty days from the date of despatching the estimate, for sufficient cause shown, allow. The second instalment shall consist of the rest of the estimated cost, and shall be payable within seventy days of the date of despatching the estimate. Credit for the initial deposit shall be given in the second instalment.

100 : Substituted vide Rajasthan Gazette Part IV-C dated 17.12.70 pg 470 to 479.

101 : Substituted vide Rajasthan Gazette Part IV-C dated 17.12.70 pg 470 to 479.

102 : Substituted vide Rajasthan Gazette Part IV-C dated 17.12.70 pg 470 to 479.

103 : Substituted vide Rajasthan Gazette Part IV-C dated 17.12.70 pg 470 to 479.

¹⁰⁴**202.** (Omitted.)

¹⁰⁵**203. Communication of estimate** - Immediately on the preparation of the estimate the Deputy Registrar shall despatch under his signature, a copy of the estimate by post under registered cover to the person maintained in this behalf in the application for paper book and also deliver a copy thereof to the Advocate concerned. No other notice of such estimate shall be given.

¹⁰⁶**204. Consequence of failure to pay instalment within the prescribed period - (1)** If any instalment of the estimated amount is not paid within the prescribed time, the matter shall be listed alongwith an office report before the Registrar who may from time to time for sufficient cause shown extend the time for such payment. If such instalment is not paid within the prescribed time or within such further time as the Registrar may allow the order for copying and typing of the paper with respect to which the estimate was prepared shall abate and except as hereinafter provided the papers included in the application shall not be copied and typed in pursuance of such order.

(2) No initial deposit made on behalf of an applicant shall, where the order for copying and typing of the papers has abated, be refunded.

¹⁰⁷**205. Dismissal of appeal on abatement of order for copying and typing** - Immediately on the abatement of an order for copying and typing on an application under sub-rule (1) or (2) of rule 183, the appeal or the cross objection, as the case may be, shall be listed for dismissal before the court and shall be dismissed:

Provided that if the Court is, on an application having been made supported by an affidavit, satisfied that there was reasonable cause for default, it may order that the appeal or the cross-objection, as the case may be, shall stand dismissed unless the payment is made within such further time as it may deem fit to allow :

Provided further that if payment is made in accordance with such conditional order of the Court the abatement of the order for copying and typing shall be deemed to have been set aside.

¹⁰⁸**206. Insufficiency of amount deposited and its consequences** - Where it appears at any time that the amount deposited by any party for preparation of paper book is not or will not be sufficient to cover the actual cost incurred or to be incurred in it, the Deputy Registrar shall call upon the party concerned to make good the deficiency and if such deficiency is not made good

104 : Omitted vide Rajasthan Gazette Part IV-C dated 17.12.70 pg 470 to 479.

105 : Substituted vide Rajasthan Gazette Part IV-C dated 17.12.70 pg 470 to 479.

106 : Substituted vide Rajasthan Gazette Part IV-C dated 17.12.70 pg 470 to 479.

107 : Substituted vide Rajasthan Gazette Part IV-C dated 17.12.70 pg 470 to 479.

108 : Substituted vide Rajasthan Gazette Part IV-C dated 17.12.70 pg 470 to 479.

within thirty days from the date of demand or within such further time as the Registrar may for sufficient cause shown allow, the following consequences shall follow, namely :-

(a) No further copying and typing shall be done in pursuance to such application.

(b) Where the deficiency is due from the applicant and is in respect of an application under sub-rule (1) of rule 183 or an application made under any other rule but represents an amount already spent or for the payment of which liability has already been incurred by the office, the appeal shall be listed for dismissal and shall be dismissed unless the Court for sufficient cause shown directs that it shall stand dismissed on the requisite payment not being made within such further time as it may deem fit to allow.

(c) Where the deficiency is due from the respondent and is in respect of an application under sub-rule (2) of rule 183 or an application made under any other rule but represents an amount already spent or for the payment of which liability has already been incurred by the office,

(i) the cross-objection, if any, shall be listed for dismissal before the Court and shall be dismissed unless the Court for sufficient cause shown directs that it shall stand dismissed on the requisite payment not being made within such further time as it may deem fit to allow; and

(ii) the appeal shall thereafter be heard ex parte against him.

(d) Where any deficiency remains due from a party, it shall not be entitled to recover as costs any expenses incurred by it on account of copying and typing done in pursuance to the application to which the deficiency relates, whatever may be the result of the appeal.

¹⁰⁹**207. Decree not to be prepared unless deficiency made good** - If a sum remains due with respect to an application for paper book from any party after the appeal has been disposed of and the sum includes an amount already spent or for the payment of which liability has already been incurred by the office, no decree shall be prepared until such sum has been paid by the successful party to the appeal. The sum so paid shall be taxed as cost for the party making the payment.

¹¹⁰**208. Notice for refund on abatement of application** - If the amount of any instalment fixed in an estimate is paid after the expiry of the prescribed time or where time had been extended, after the expiry of such extended time, notice thereof shall be given to the party making the payment or his Advocate,

109 : Substituted vide Rajasthan Gazette Part IV-C dated 17.12.70 pg 470 to 479.

110 : Substituted vide Rajasthan Gazette Part IV-C dated 17.12.70 pg 470 to 479.

and he may thereafter if so entitled under the rules make an application to the Deputy Registrar for its refund.

¹¹¹**209. Application for refund of excess deposit** - If the amount deposited by any party be found to exceed the actual cost incurred in pursuance of an order for the preparation of paper book such party may, as soon as the amount of such cost has been ascertained, present an application for the repayment of such excess, to the Deputy Registrar.

¹¹²**210. Application by another party after abatement of order for copying and typing** - Where an order for copying and typing made on an application under rule 183 has abated, any party other than the party on whose application such order has been made, may on an application made within thirty days of the date of such abatement obtain from the Deputy Registrar an estimate of the cost of copying and typing any papers covered by the said order and thereafter present an application for the copying and typing of such papers. The Registrar may thereupon order that if the applicant pays the estimated cost of such copying and typing within ten days of the making of the order, such papers be copied and typed and that, subject to any further orders, the appeal be not heard until such papers have been copied and typed. For the purpose of taxation of costs such application shall be deemed to be an application made within the prescribed time.

¹¹³**211. Additional evidence and finding under Order XLI, rule 25 of the Code** - Where on a reference made under rule 25 of Order XLI of the Code, additional evidence has been taken by the court from whose decree the appeal is preferred, any party to the appeal may obtain from the Deputy Registrar on an application accompanied by the requisite initial deposit an estimate cost of copying and typing such evidence together with the findings of such account. He may thereafter pay such estimated amount to the cashier and apply to the Registrar for an order for the copying and typing of such evidence and findings. Such application shall be made within thirty days of the notice or receipt of the findings and the evidence of such further time as the Registrar may, for sufficient cause shown, allow. The Registrar may grant the application directing at the same time that the hearing of the appeal be deferred until such evidence and findings have been copied and typed.

¹¹⁴**212. Additional evidence under Order XLI, rule 28 of the Code** - Where additional evidence is taken under rule 28 of Order XLI of the Code, the Bench hearing the appeal may make such order as may seem to it to be just for the copying and typing of such evidence and the payment of the costs thereof.

111 : Substituted vide Rajasthan Gazette Part IV-C dated 17.12.70 pg 470 to 479.

112 : Substituted vide Rajasthan Gazette Part IV-C dated 17.12.70 pg 470 to 479.

113 : Substituted vide Rajasthan Gazette Part IV-C dated 17.12.70 pg 470 to 479.

114 : Substituted vide Rajasthan Gazette Part IV-C dated 17.12.70 pg 470 to 479.

¹¹⁵213. Court may order for translation, copying and typing -

Notwithstanding anything contained in these Rules, the Bench hearing the appeal may, on the application of any party to the appeal and subject to such terms as may seem to it to be just, make an order for the translation, copying and typing, at the cost of the party making the application if it is satisfied that the application is a reasonable one and that the party making it has made it without undue delay and not for the purpose of delaying the hearing of the appeal. Such cost shall not be cost in the cause.

¹¹⁶214. Cost of translation, copying and typing to be cost in the

cause - Except as otherwise provided in these Rules or otherwise ordered by the Court, the cost of translation, copying and typing under an order made under these Rules, shall be cost in the cause.

¹¹⁷215. Objection to copying and typing of unnecessary evidence -

Any party to an appeal may, before the appeal is called on for hearing, or where a reference has been made under rule 25 of Order XLI of the Code, before the hearing of the appeal after the receipt of findings from the court below, file an objection before the Registrar that the copying and typing of any evidence has been unnecessarily procured by any other party to the appeal. Such objection shall be laid before the Court by the Registrar alongwith his report and Court may consider it while considering the question of costs in the appeal.

¹¹⁸216. Evidence not copied and typed not to be referred to -

In an appeal where the amount or value of the subject-matter of the suit in the court of first instance was twenty thousand rupees or more, and the amount or value of the subject-matter of appeal together with the amount or value of the subject-matter of the cross-objection, if any, is also twenty thousand rupees or more, no evidence which has not been copied and typed under an order made under these Rules shall be read or referred to at the hearing, except by the special leave of the Court to be recorded on the order sheet.

¹¹⁹217. Number of copies of the paper book to be prepared -

The number of copies of paper book to be prepared shall be four. Two copies shall be ordinarily retained for the use of Judges and one copy shall be given to the appellant or applicant.

In case of paper book or portions of paper books prepared at the expense of the appellant or applicant, the fourth copy shall be sold to the respondent, should he require it for one quarter of the price of preparation of the paper book, to be paid in advance. Should he purchase this copy the price paid by him shall be refunded to the appellant or applicant. Should he not purchase it, the fourth

¹¹⁵ : Substituted vide Rajasthan Gazette Part IV-C dated 17.12.70 pg 470 to 479.

¹¹⁶ : Substituted vide Rajasthan Gazette Part IV-C dated 17.12.70 pg 470 to 479.

¹¹⁷ : Substituted vide Rajasthan Gazette Part IV-C dated 17.12.70 pg 470 to 479.

¹¹⁸ : Substituted vide Rajasthan Gazette Part IV-C dated 17.12.70 pg 470 to 479.

¹¹⁹ : Substituted vide Rajasthan Gazette Part IV-C dated 17.12.70 pg 470 to 479.

copy will be retained by the appellant or applicant. In case there is more than one respondent this copy will issue to the principal respondent. At the request of other respondents and if the Registrar can conveniently arrange to have them prepared, extra copies may be prepared on payment for each such copy such extra sum not exceeding 25 percent of the total cost of preparation of the paper book as the Registrar may fix provided such application is made within 30 days from the date they are served with the notice of the appeal.

In the case of that portion of the paper book which has been prepared at the expense of the respondent, the appellant may similarly get the fourth copy on payment of one quarter of the price of the preparation of that portion, to be paid in advance. The price so paid shall be returned to the respondent.

¹²⁰**218.** (Omitted.)

¹²¹**219. Copying and typing out of turn -** The copying and typing of evidence under these Rules shall not be done out of turn nor shall any application for paper book be taken up out of turn unless specially directed by the Chief Justice. In such case a further sum amounting to 50 per cent over and above the total estimated cost shall be paid by the party making the application and the sum so paid shall not be cost in the cause.

¹²²**220. Inspection or copy of application or order -** Any party to the appeal or his advocate or the registered clerk of such Advocate may inspect, or obtain a copy of, any application under this Chapter or any order made thereon.

¹²³**221. Registrar's orders rejecting applications revisable by Court -** Any order made by the Registrar rejecting an application under this Chapter shall be subject to revision by the Court.

¹²⁴**222. Translation of a paper when it cannot be arranged for by the Registrar -** If any paper to be included in a paper book is in a language other than Hindi or English the Registrar may ask the party applying for the inclusion of such paper in the paper book, to provide an expert who may be able to translate it into English or transliterate it and a translation or transliteration made by such person may be accepted and included in the paper book provided that it is verified by him in the following manner, namely:-

“I, (A.B.), do declare that I read and understand the language and character of the original, and that the above is a true and accurate translation thereof.”

120 : Omitted vide Rajasthan Gazette Part IV-C dated 17.12.70 pg 470 to 479.

121 : Substituted vide Rajasthan Gazette Part IV-C dated 17.12.70 pg 470 to 479.

122 : Substituted vide Rajasthan Gazette Part IV-C dated 17.12.70 pg 470 to 479.

123 : Substituted vide Rajasthan Gazette Part IV-C dated 17.12.70 pg 470 to 479.

124 : Substituted vide Rajasthan Gazette Part IV-C dated 17.12.70 pg 470 to 479.

¹²⁵**223. Paper Book where the appeal may be disposed of on a question of law alone -** Wherein the case of any First Appeal the Chief Justice is satisfied that it may be disposed of on a question of law alone, he may order that a type-written paper book consisting only of the memorandum of appeal, the pleadings in the case, the judgment under appeal and such other paper as he may direct be prepared.

¹²⁶**224. Preparation of paper book out of Court -** On application by a party, the Chief Justice, after giving an opportunity to the other party, if represented by counsel to be heard, may in any case direct that such party may get the paper book prepared out of Court on the following lines:-

(1) An application made under this rule for the preparation of a Paper Book out of Court should invariably be accompanied by a list of papers proposed to be included in the Paper Book. At the same time the applicant should serve a copy of the application together with the list upon the opposite party so that the opposite party may be in a position to know the papers proposed to be included and file his own list of papers, if any. In case of any this agreement between the party as to the list of papers to be included in the paper book, the Registrar shall settle the same in the presence of the parties or their counsel.

(2) The Paper Book shall be arranged in two parts, namely :-

(a) Part I – to consist of pleadings, oral evidence, judgment and decree and proceedings of the Court below and the grounds of appeal and cross-objection, if any, filed in the High Court.

(b) Part II – to consist to documents and exhibits.

(3) The Paper Book shall consist of a fly sheet bearing the number and title of the case, an index in proper form giving full description of the papers page number identification marks etc. in the following pro-forma and all the necessary and relevant papers in proper order :-

S.No.	Descriptions of documents	Date	Page	Identifications marks in the file
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125 : Substituted vide Rajasthan Gazette Part IV-C dated 17.12.70 pg 470 to 479.

126 : Substituted vide Rajasthan Gazette Part IV-C dated 29.4.71 Pg 71 to 73.

(3) Papers in part-I of the Paper Book shall be filed in chronological order and shall be numbered consecutively. Documents in part II shall follow the order of their exhibit marks.

(4) Each document or paper included in the Paper Book should bear a heading giving the description, date and identification mark thereof. Short heading and date shall be repeated on each page covering the document.

(5) Counsel under whose supervision the Paper Book is prepared shall initial every page and shall give a certificate as to the correctness of the Paper Book at the end of the index to the following effect :-

“Certificate that the Paper Book has been prepared under my supervision and contains all necessary papers duly compared and found correct with the original thereof.”

(6) The Paper Book filed will be compared with original record by the Superintendent (Translation Section). The Comparison charges shall be twenty five paise per page.

(7) In case the Superintendent is of the opinion that some pages should be retyped because of numerous corrections, he shall intimate the party which will remove the defects within the time specified by him failing which the appeal will be liable to rejection. The Superintendent shall list the case for orders before the Bench concerned.

¹²⁷**225. Order directing hearing of an appeal without preparation of paper book** - On application by a party, the Chief Justice, after giving an opportunity to the other party if represented by a counsel to be heard, may on the applicant furnishing such cash security as may be considered proper so as to ensure the speedy preparation of a paper book in accordance with these Rules in case of a further appeal from this Court, direct that the appeal be listed for hearing without the preparation of a paper book.

¹²⁸**226. Direction as to the copying and typing of papers for inclusion in a paper book** - The Chief Justice shall from time to time issue directions as to the manner in which and the condition according to which paper to be copied and typed shall be copies and typed for inclusion in the paper book.

127 : Substituted vide Rajasthan Gazette Part IV-C dated 29.4.71 Pg 71 to 73.

128 : Substituted vide Rajasthan Gazette Part IV-C dated 29.4.71 Pg 71 to 73.

¹²⁹**SCHEDULE TO CHAPTER XIII**

(a)	Counting Fee	30 Paise per 1000 English and 30 Paise per 1900 vernacular words.
(b)	Translation Fee	Rs. 4/- per 100 words.
(c)	Typing Fee	For four copies Rs. 2/- per hundred words.
(d)	Comparison Fee	30 Paise per page.
(e)	indexing Charges	30 paise each paper.
(f) Miscellaneous Charges		
	Paper	10 paise per sheet.
	Registration charges & postage.	Actual charges.
	Editing fee	Rs. 75/-
	Transliteration fee	As may be fixed by the Registrar in a particular Case.”

CHAPTER XIV

Paper book in cases other than First appeals

227. Paper book to be prepared in every case - In every case listed for hearing before a bench consisting of more than one Judge, a paper book shall be prepared for the use of the Judges hearing it except in cases coming up for hearing under rule 11 of Order XLI of the Code or for summary hearing under rule 111 of Chapter VIII or in the case of an application which is not required under these Rules to be registered and numbered as a separate case or in any other case if so ordered.

Where an application which has not been registered and numbered as a separate case is listed for hearing before a Bench consisting of more than one Judge, copies of applications and affidavits supplied by the parties shall be stitched together for the use of the Judges constituting the Bench.

228. Contents of paper book - A paper book shall consist of

- (i) a fly-sheet,
- (ii) an index and
- (iii) such copies as are indicated in the succeeding Rules.

Ordinarily certified copies of judgments or orders filed by the appellant along with the memorandum of appeal shall be used for inclusion in the paper book. If any such copy is faint or not properly typed or not legibly written, it

shall not be so included and a fresh neatly typed copy shall be prepared for inclusion in the paper book.

229. Paper book to be type-written - Unless otherwise ordered, every copy included in a paper book shall be type-written and the paper book shall be paged. The index shall indicate the pages of all the papers included in the paper book together with their identification numbers as entered in the general index prepared in the court below. Papers flagged and not included in the paper book shall also be entered in the general index along with their identification numbers.

230. Paper book in Execution First Appeal - Copies to be included in the paper book of an Execution First Appeal shall be of the following papers, namely:-

- (a) Memorandum of appeal;
- (b) Memorandum of objection, if any, to the decree appealed from;
- (c) judgment under appeal;
- (d) application or objection disposed of by the judgment under appeal;
- (e) reply to such application or objection; and
- (f) reply to such reply, if any.

231. Paper book in Execution Second Appeal - Copies to be included in the paper book of an Execution Second Appeal shall be of the following papers, namely:-

- (a) Memorandum of appeal;
- (b) Memorandum of objection, if any, to the decree appealed from;
- (c) judgment under appeal;
- (d) judgment of the court of first instance;
- (e) any order under rule 23, 25 or 28 of Order XLI of the Code, return to such order and in the case of an order under rule 111 any memorandum of objection to such return, if any;
- (f) application or objection disposed of by the judgment of the court of first instance;
- (g) reply to such application or objection; and
- (h) reply to such reply, if any.

232. Paper book in Second Appeal - (1) Copies to be included in the paper book of an appeal from an appellate decree in a case other than an execution case shall be of the following papers, namely—

- (a) memorandum of appeal,

- (b) memorandum of objection if any, to the decree appealed from,
- (c) plaint,
- (d) written statement,
- (e) further pleadings, if any,
- (f) statement recorded under rule 1 or 2 of order X of the Code, if any,
- (g) judgment of the court of first instance,
- (h) judgment of the appellate court, and
 - (i) any order under rule 25 or 28 of Order XLI of the Code, return to such order, and in the case of an order, under rule 111 memorandum of objections to such return, if any.

(2) Written statements of defendants who are not parties to the appeal and long schedules annexed to the plaint where the grounds of appeal raise no questions relating to such schedules, shall not be included in the paper book.

233. Paper book in First Appeal from order of remand- Copies to be included in the paper book of a First Appeal from an order of remand shall be of the following papers, namely—

- (a) memorandum of appeal;
- (b) memorandum of objection to the order appealed from, if any;
- (c) plaint;
- (d) written statement;
- (e) further pleadings, if any;
- (f) judgment of the court of first instance; and
- (g) judgment upon which the order under appeal is founded.

234. Paper Book in First Appeal from order - Copies to be included in the paper book of a First Appeal from an order, other than an order of remand, shall be of the following papers, namely:—

- (a) memorandum of appeal;
- (b) memorandum of objection to the order appealed from, if any;
- (c) application on which the order under appeal was passed;
- (d) objection to such application, if any; and
- (e) judgment upon which the order under appeal is founded.

235. Paper Book in an appeal from an appellate order - Copies to be included in the paper book of an appeal from an appellate order where such appeal is allowed by any law shall contain copies of the following papers, namely:—

- (a) memorandum of appeal;
- (b) memorandum of objection to the order appealed from, if any;
- (c) application on which the order under appeal was passed;
- (d) objection to such application, if any;
- (e) judgment or order of the court of first instance;
- (f) judgment upon which the order under appeal is founded.

236. Paper book in an application for revision - Copies to be included in the paper book of an application for revision shall be of the following papers, namely:—

- (a) application for revision;
- (b) judgment or order to which the application relates; and
- (c) if such judgment or order is one passed in appeal, the judgment or order of the court of first instance.

237. Paper book in an application for review - Copies to be included in the paper book of an application for review shall be of the following papers, namely: -

- (a) application for review;
- (b) affidavit filed in support of the application, if any;
- (c) affidavits in reply, if any; and
- (d) judgment or order to which the application relates.

238. Paper book in certain Special Appeals - Copies to be included in the paper book of & Special Appeal other than one from a decree or order in an original trial or proceeding, shall be of the following papers, namely: —

- (a) memorandum of appeal;
- (b) judgment appealed from; and
- (c) the paper book, if any, prepared for the use of the Judge from whose judgment the appeal is preferred.

239. Paper book in other Special Appeals - (1) Copies to be included in the paper book of a Special Appeal from a decree or order in an original trial or proceeding shall be of the following papers, namely:—

- (a) memorandum of appeal;
- (b) judgment appealed from;
- (c) pleadings and further Readings, if any; and

(d) where the proceedings had originated on an application or petition, such application or petition and the objection thereto, if any.

(2) Such copies of evidence, oral or documentary, as may be supplied by the parties after having been certified as correct by their Advocates shall also be included in the paper book.

240. Paper book in cases not otherwise provided for - (1) The paper book in cases not otherwise provided for in these Rules shall be prepared under the direction of the Registrar subject to such orders as may be passed from time to time by the Chief Justice.

(2) No paper book will ordinarily be prepared in cases heard by a Single Judge.

¹³⁰**241. When party to provide transliteration or translation of a document** - “Any party may apply for the inclusion in the paper book of any papers, he may wish to refer to (where reference to such papers is permissible) in addition to the papers mentioned in Rules 230 to 239.”

¹³¹**242.** [deleted]

243. When a party may supply paper book - The Chief Justice may permit a party to supply for the use of the Court and the other party copies of paper books prepared in accordance with these Rules. In such case no paper book shall be prepared by the office.

244. Cost of preparing paper book not to be charged from parties - Except under rule 243, where copies of any paper or its transliteration or translation are supplied under this Chapter by any party to a proceeding, the post thereof shall be borne by such party whatever may be the Result of the case.

245. Charges of paper book - (a) The scale of charges for the preparation of paper book as laid down in Chapter XIII shall be applicable to paper books prepared under this Chapter. ¹³²(Subject to the provisions of Rule 197, the editor's fee shall be) ¹³³(Rs. 25/-.)

130 : Substituted vide Rajasthan Gazette No. 78 dated 4.2.56 Part IV – C, Page 1115-1116.

131 : Deleted vide Rajasthan Gazette No. 78 dated 4.2.56 Part IV – C, Page 1115-1116.

132 : Substituted vide Notification No. 3/SRO dated 16.10.80.

133 : Substituted vide Rajasthan Gazette Part 1 (B) dated 16.4.92, Page 47.

¹³⁴{(b) Subject to the provisions of rules 186 and 188, the initial deposit required with the application shall be} ¹³⁵(Rs. 75/-.)

(c) An estimate of preparing the paper-book shall be made as soon as the application for the preparation of the paper-book is received.

246. Distribution of copies of paper book and charging of price therefore - For the preparation of the paper book, four copies of all papers in the book shall ordinarily be made. Two copies shall be ordinarily retained for the use of the Judges and one copy shall be given to the appellant or applicant.

In the case of paper books or portions of paper books prepared at the expense of the appellant or applicant, the fourth copy shall be sold to the respondent, should he require it, for one-quarter of the price of preparation of the book, to be paid in advance. Should he purchase this copy the price paid by him shall be refunded to the appellant or applicant. Should he not purchase it, the fourth copy will be retained by the appellant or applicant. In case there is more than one respondent, this copy will issue to the principal respondent. Other respondents will be charged under the Copying Rules should they require copies.

In the case of that portion of the paper book which has been prepared at the expense of the respondent, the appellant may similarly get the fourth copy on payment of one-quarter of the price of the preparation of that portion, to be paid in advance. The price so paid shall be returned to the respondent.

¹³⁶**247. Application of provisions of Chapter XIII** - “The rules contained in Chapter XIII shall apply mutatis mutandis to the preparation and use of paper books under this Chapter in regard to matters for which no provision is contained in this Chapter (e.g., issue of notices making of applications, payment of charges and dismissal of cases in default of applications or of payment, scrutiny by Editor, revision of Editor's decision by Registrar and filing of typed copies of excluded papers)”.

¹³⁷**Chapter XIV-A**

Special provisions relating to procedure in appeals from orders of Election Tribunals

¹³⁸**[Rule 247 A.** The provisions of this Chapter shall govern appeals under section 116-A of the Representation of the People Act, 1951.

134 : Added vide Notification No. 3/SRO dated 16.10.80.

135 : Substituted vide Rajasthan Gazette Part 1 (B) dated 16.4.92, Page 47.

136 : Substituted vide Rajasthan Gazette No. 78 dated 4.2.56 Part IV – C, Page 1115-1116.

137 : Added vide Gazette No 25 dated 19.9.57 Part IV – C, Page 419 to 421.

138 : Added vide Gazette No 25 dated 19.9.57 Part IV – C, Page 419 to 421.

Rule 247 B. The appellant shall, with the memorandum of appeal, file an affidavit setting out the present address of the respondent where he can be served. The memo shall also be accompanied by postal envelopes bearing requisite postage stamps to enable service to be effected on the respondent by registered post acknowledgement due.

Rule 247 C. Where the postal acknowledgement has been received duly signed or where the envelope has been returned with the endorsement 'Refused' the respondent shall be deemed to have been served.

Rule 247 D. Where the notice of appeal is not served in the manner indicated in the preceding rule, it may be served in accordance with the provisions of Rule 172 (Chapter XII of Rules of the Court).

Rule 247 E. Every memorandum of appeal shall be accompanied by as many typed copies of the paper book as there may be parties to be served together with two extra copies for the use of the court.

Rule 247 F. The paper book shall consist of a fly-leaf and index and copies and transliterations or translations of the following papers, namely-

- (a) election petition;
- (b) written statement;
- (c) further pleadings, if any;
- (d) statements of parties or their pleaders recorded under rule 1 and 2 of Order X of the Code;
- (e) judgment under appeal;
- (f) memorandum of appeal; and
- (g) such evidence, oral or documentary or other papers as the appellant may wish to refer to.

Rule 247 G. On the date fixed for appearance of the respondent, the respondent shall be supplied with a copy of the paper book filed by the appellant and shall be required to intimate in writing on the next working day if he wants to file a supplementary paper book containing such other evidence, oral or documentary, or other papers as he may wish to refer to. In case he gives this intimation, he shall file three typed copies of the supplementary paper book within 14 days of the intimation referred to above.

Rule 247 H. The correctness of the translation and typing of paper book shall be certified by the Advocate of the party preparing the copy.

Rule 247 I. The Registrar shall determine the cost of preparation of a paper book before the appeal comes up for hearing and the Court shall decide whether the whole or a portion of the costs shall be taxed.

Rule 247 J. Notice to appear issued to respondent shall be in form No. 13 of Part I of Appendix A.]

CHAPTER XV

Original and Extraordinary Original Civil Jurisdiction

248. Institution of suit - (1) Every suit shall be instituted by the presentation of the plaint to the official appointed under Chapter XI, rule 154 of these Rules to receive applications.

(2) The provisions of Rules 154, 155, 157 & 158 of Chapter XI shall with necessary modifications and adaptations also apply to the presentation of plaints.

249. Application of section 4 of the Court Fees Act, 1870, as adapted to Rajasthan - The provisions of section 4 of the Court Fees Act, 1870, as adapted to Rajasthan, with respect to the payment of court-fees in cases coming before the Court in the exercise of its extraordinary original civil jurisdiction shall also apply to cases coming before it in the exercise of its ordinary original civil jurisdiction.

250. Constitution of Bench - When a suit has been duly instituted, it shall be registered and numbered and laid before the Chief Justice for the constitution of a Bench to hear the case.

251. Supply of process fees etc - As soon as the Bench has been constituted, the case shall be put up before it and it may direct that notice be issued to the defendant to appear and answer the claim.

Process fees for the issue of notices, summonses or other processes, cost of advertisement, if any, and copies of plaints, petitions, affidavits etc. for service on the defendant, if not supplied at the time of the presentation of the plaint, shall be supplied by the plaintiff within ten days of the date of the order directing the issue of notice to the defendant. If this is not done, the plaint shall be listed before the Court for being rejected and shall be rejected unless the Court for sufficient cause shown allows further time for supplying such process fees, cost of advertisement or copies, as the case may be.

252. Notice - On the plaintiff complying with the requirements of the next preceding Rule, notice shall be issued to the defendant to appear and answer the claim on a date to be specified therein. Such notice shall also direct that if he wishes to put up a defence he shall file his written statement together with a list of all documents in his possession or power or upon which he intends to rely in support of his case at least ten days before the date fixed and that in case of delay he may be liable to pay the costs of any adjournment that may be necessitated thereby.

253. Appearance by defendant - The defendant shall enter appearance by filing with the Registrar a memorandum signed by him or his Advocate

giving an address at which service of notice, summons or other process may be made upon him. Such address shall be within the territorial limits of the jurisdiction of the Court.

In default of appearance being entered before the date mentioned in the notice, the suit may be heard and determined in his absence.

254. Form of pleadings and applications - All pleadings and applications shall be in the language of the Court and shall be drawn up in the manner provided in Rules 126, 129 and 130 of Chapter IX with such modifications and adaptations as circumstances may require. Rule 135 of the same Chapter shall with necessary modifications and adaptations also apply to such pleadings and applications.

Material corrections or alterations shall be authenticated by the initials of the person verifying the plaint or written statement, or signing the application, as the case may be.

255. Rejection of defective plaint etc. - If a plaint, written statement, or application is not drawn up in accordance with these Rules, or if it is otherwise defective or not in order it may be rejected or returned to the person presenting it, and it shall be rejected where time has been allowed by the Court for the removal of any defect and such defect has not been removed within such time or such further time as the Court may allow.

256. Production of documents - Subject to any orders that may be passed by the Court the parties or their Advocates shall on the date fixed for the defendant's appearance produce all the documents in their possession on which they intend to rely.

The Registrar or any other officer authorised by the Court may record admissions or denials on such documents.

257. Filing of documents - All documents filed in the case shall be accompanied by a list signed by the party filing them or his Advocate. On every such document the Registrar or the Bench Reader, as the case may be, shall note the date of presentation under his initials.

258. Issues - It shall not be incumbent upon the Court to frame issues unless it considers that the decision of the case will be assisted thereby.

259. Absence of parties - Where on any day to which the hearing of the suit is adjourned the parties or any of them fail to appear, the Court may proceed to dispose of the suit in such manner as it thinks just.

260. Summoning of witnesses - An application for the issue of summonses to witnesses may be made by a party to the suit, or by his Advocate. Summonses shall be on the printed form which shall be filled up by the applicant, the date of appearance and the date of the summons being left blank. The date fixed for appearance shall be inserted by the office and the summons shall be dated and signed by an officer of the Court.

The Registrar may direct that in any particular case all the entries in the form be made by the office.

261. Allowance and diet money to witnesses - (1) The Rules contained in the appendix to Chapter XVII for the payment of travelling allowance and diet money to witnesses in criminal proceedings shall with such modifications and adaptations as may be found necessary also apply to civil proceedings, provided that in special cases or in cases not specifically covered by these Rules, the Court may allow such payment to be made to them as it may think fit.

(2) In the case of a person summoned to give evidence as an expert the Court may allow such remuneration as it may consider reasonable for the time occupied in giving evidence or in performing any work of an expert character necessary for the case.

262. Deposit of travelling allowance and diet money - A party applying for a summons shall, before the summons is granted and within a period to be fixed by the Registrar, deposit with the Cashier such amount as may appear to the Registrar to be sufficient to defray the reasonable travelling expenses and diet money for one day's appearance in Court of such witness. In the case of a person summoned to give evidence as an expert the Registrar may also require the party applying for summons to deposit with cashier such further sum as may in his view be sufficient to enable payment to be made to such witness by way of remuneration under the next preceding Rule.

In case of any disagreement or doubt as to the amount to be deposited under this Rule, the matter shall be decided by the Registrar.

263. Issue of Summons - After the deposit required by Rule 262 has been made the Deputy Registrar shall cause the summons to be issued.

264. Witness required to attend on a subsequent day - (1) If the evidence of a witness is not taken or completed on the first day on which he attends the Court in obedience to a summons, the party summoning him shall before 4 p.m. on that day deposit with the cashier an amount sufficient to enable the witness to attend on the subsequent day and if on such subsequent day also his evidence is not taken or completed a similar procedure shall be followed:

Provided that the party may if it so desires make payment to the witness direct in the presence of the Court or the Deputy Registrar and file the receipt in Court.

(2) If the expenses of a witness are not paid by the party summoning him in accordance with sub-rule (1), the witness shall not be bound to remain in attendance on any subsequent day.

265. Payment to witnesses of money deposited with cashier - Where expenses have been deposited with the cashier under the next preceding Rule, they shall be paid to the witness on the next day.

266. Claim by witness - Any claim made by a witness with respect to the expenses payable to him may be considered and decided by the Bench hearing the case or by an officer authorised by it.

267. Original proceedings - The Rules contained in this Chapter shall, with such modifications and adaptations as may be necessary, also apply to other original proceedings instituted in the Court.

268. Extra-ordinary civil jurisdiction - The Rules contained in this Chapter with respect to the trial of suits instituted in this Court shall, so far as may be, also apply to—

(1) any suit removed from any court subject to the superintendence of the Court to be tried and determined by it in the exercise of its Extraordinary Original Civil Jurisdiction; and

(2) any suit and other original proceeding withdrawn from a subordinate court under Article 228 of the Constitution:

Provided that any such suit or proceeding shall unless otherwise ordered proceed from the stage at which it was before it was so removed or withdrawn.

269. Court's Powers to give directions in matters of practice and procedure - The Court may in any suit or proceeding under this Chapter give such directions in matters of practice and procedure as it shall consider just and expedient.

CHAPTER XVI

Taxation of Advocates' Fees

270. Preliminary - The Rules contained in this Chapter shall regulate the inclusion of Advocate's fees in the taxation of costs.

271. Suits, applications for probate and letters of administration and appeals from original or appellate decrees - (1) The fee to be

allowed on taxation in a contested suit, or a contested application for probate or letters of administration, or an appeal, contested or uncontested, from an original or appellate decree in a suit shall subject to a minimum of Rs. 75/- in a suit or an application for probate or letters of administration or a First Appeal and Rs. 32/- in a second Appeal, be an amount calculated on the value of the claim in accordance with the following scale, namely:—

- (i) on the first Rs. 5,000 7^{1/2} per cent
- (ii) on the next Rs. 15,000 3 per cent
- (iii) on the next Rs. 30,000 1^{1/2} per cent
- (iv) on the remainder 1 per cent

(2) When any suit or application for probate or letters of administration is decided *ex parte*, on confession of judgment or on compromise, or withdrawn or dismissed for default, the amount of fee to be included in the taxation of costs shall be one-half of the amount calculated in accordance with the scale given in sub-rule (1) subject to a minimum of Rs. 75/-.

272. First appeal in which application for summary determination is made - The fee to be allowed on taxation in a First Appeal on the disposal of an application for the summary determination of such appeal under rule 111 of Chapter VIII shall be as follows:-

(i) Where the application for the summary determination of an appeal is allowed and the appeal dismissed, the fees shall be as in sub-rule (i) of rule 271.

(ii) Where the application for the summary determination of an appeal is rejected, one-fourth of the amount of fee taxable under sub-rule (i) of rule 271 shall, subject to a minimum of Rs. 50, be allowed to the appellant as against the party which made the application. Any order as to costs passed under this clause shall not effect the costs in the appeal.

273. Case under section 14(2) of the Indian Arbitration Act, 1940

- The amount of fee to be allowed on taxation in a case under sub-section (2) of section 14 of the Indian Arbitration Act, 1940, shall subject to a minimum of Rs. 50, be an amount calculated on the value of the claim in accordance with the following scale, namely:—

- (i) on the first Rs.5,000 4 per cent,
- (ii) on the next Rs.15,000 2 per cent,
- (iii) on the next Rs.30,000 1 per cent,
- (iv) on the remainder $\frac{1}{2}$ per cent.

274. Case under section 20 of the Indian Arbitration Act, 1940

- The fees to be allowed on taxation in a case under section 20 of the Indian Arbitration Act, 1940, shall be such as the Court may direct.

275. Matrimonial Cases - In Matrimonial suits and appeals arising there from the fees to be allowed on taxation shall, subject to such order as the Court may, having regard to the difficulty or duration of the case, allow, be as given below, namely:—

- (1) in an undefended case Rs. 200/-
- (2) in a defended case—
 - (i) up to the end of the first day of hearing. Rs 200/-,
 - (ii) for each succeeding day or part of a day, such part being of not less than one hour's duration — Rs. 100/-

276. Cases under the Indian Income Tax Act, 1922 - (1) The amount of fee to be allowed to the Advocate for the Commissioner of Income Tax on taxation in a case under the Indian Income Tax Act, 1922, shall be subject to the following rules namely:-

- (a) (i) In a case under section 66 (1) or (2) of the Indian Income Tax Act, 1922, such fee shall be included as may be fixed by the Court not being less than Rs. 100 or more than Rs. 200.
- (ii) For contesting an application under section 66 (3) of the Indian Income Tax Act, 1922, a fee of Rs. 75 in any one of the first twelve cases and a fee of Rs. 50 in any one of the cases above that number in any calendar year shall be included:
Provided that the Court may in any case of special complexity allow a higher fee.

(b) The Advocate for the Commissioner of Income Tax shall in every case under section 66 (3) of the Indian Income Tax Act, 1922, certify the amount of fee payable to him under this Rule.

(c) Where a higher fee is fixed by the Court under the proviso to sub-rule (1) (a) (ii) above it shall be included in the taxation of costs provided such Advocate files a certificate within one month from the date of the order passed by the Court or within such further time as the Court may on application made by him allow that he has received the consent of the Government to the payment to him of such higher fee.

(2) The fee payable to the Advocate for the other party shall be such as may be fixed by the Court in each case and shall be included in the taxation of costs provided a certificate as required by rule 292 of this Chapter has been duly filed showing the payment to such Advocate of a fee not less in amount than the amount of fee allowed by the Court. Where the fee so paid is less than the fee allowed by the Court such lesser fee alone shall be included in the taxation of costs.

277. Certain Miscellaneous Cases - In a miscellaneous case for the setting aside of an abatement or an *ex parte* decree or an order dismissing a case

for default, a fee of Rs. 50 shall be allowed in the case of a First Appeal and Rs. 32 in any other case.

¹³⁹[**278. Application under Article 226 of the Constitution** - “The Advocate's fee shall be Rs. 100/- in an application made under Article 226 of the Constitution and Rs.75/- in an application made under Article 227 of the Constitution :

Provided that the Court hearing such applications may, having regard to the labour involved in the preparation of the cases or the complexity of the issues arising therein or for any other sufficient reason, allow higher fee not exceeding Rs. 500/- in an application made under Article 226 and Rs. 250/- in an application made under Article 227 of the Constitution.]

279. Cases not specifically provided for - In cases not specifically provided for in this Chapter including Execution Appeals, Appeals from Orders, Revisions, applications under Chapter XXIII, References, cases under the Indian Companies Act, 1913, and testamentary and Intestate cases other than applications for probate or letters of administration, the fee shall, if the claim is capable of valuation, be an amount calculated, on the value of the claim in accordance with the following scale, namely: —

- (i) on the first Rs. 5,000-----5 percent.
- (ii) on the next Rs. 45,000-----1 percent.
- (iii) on the remainder-----1/2 percent.

The minimum taxable fee in such cases shall be Rs. 32 and the maximum, unless otherwise ordered by the Court, Rs. 1000.

280. Additional fees - The following fees shall be allowed on taxation in addition to those allowable under the preceding Rules, namely:—

- (i) For each application numbered as a miscellaneous application—
 - (a) contested ----- Rs. 32.
 - (b) uncontested ----- Rs. 24.

Provided that the Court may in special cases allow a larger or a smaller sum or disallow any fee.

- (ii) For each affidavit filed in support of an application or an answer thereto or a reply to such answer, if any----- Rs. 15.

Provided that the Court may allow a larger or a smaller sum having regard to the circumstances of the case or wholly disallow any fee if the affidavit does not contain proper particulars and material averments or is prolix or contains unnecessary or irrelevant matter.

- (iii) For setting of documents for translation and printing in First Appeals. —

139 : Substituted vide 5/S.R.O. dated 21.4.1965 Pub. in Rajasthan Gazette Part 4 (C) dated 29.4.65 Page 58.

- (a) If the number of documents in the list does not exceed 16..... Rs. 24
- (b) if the number of documents in the list exceeds 16 but does not exceed 48.....Rs. 48
- (c) for each additional document beyond 48— Annas six.

Provided that the whole or any part of such fee or the whole or any part of the costs of the appeal may be disallowed by the Bench hearing the appeal, if in the selection of documents for inclusion in the list unnecessary documents or groups of document of the same tenor have been included or material documents omitted.

281. Cross-objection - Any cross-objection filed under rule 22 of Order XLI of the Code shall, for the purposes of this Chapter, be treated as separate appeal.

282. Value of the claim - The value of the claim in rules 271, 272, 273 and 279 shall be the value stated in the plaint in the case of a suit, the value stated in the memorandum of appeal in the case of an appeal, the value stated as that of the property in respect of which the application is made in the case of an application for probate or letters of administration, and in other cases, the value as stated in the application if the case is one in which the relief claimed is capable of valuation. Fractions of a rupee shall be omitted from the value of the claim in calculating fees.

283. Cases in which relief is one incapable of valuation - In a case referred to in the next preceding Rule in which the claim is incapable of valuation in the manner provided in that Rule, the Court may allow such fees as it may consider reasonable.

284. Court may allow higher or lower fee or disallow any fee - Notwithstanding anything contained in Rules 271, 272, 273, 275, 276, 277, 279 and 281, the Court may allow a higher fee if in its opinion the fee allowable under the Rules is, having regard to the circumstances of the case, inadequate or may for sufficient cause shown allow a lower fee or order that no fee be entered in the table of costs of a party.

285. Several defendants succeeding upon a joint common defence - Where several defendants whether arrayed as appellants or respondents in this Court having a joint or common interest, succeed upon a joint defence to the suit or upon separate defences which are substantially the same, the total sum to be entered in their joint table or in their respective tables of costs shall not exceed that allowable under the Rule applicable to the class to which the case belongs, unless the Bench hearing the case orders otherwise.

If only one fee is allowed, the Court may indicate to which of the defendants it shall be paid or may apportion it amongst them in such manner as it may think fit. If the Court makes no such order, the Taxing Officer shall apportion it equally among such defendants as may have appeared by an Advocate at the hearing of the case.

This Rule shall with necessary modifications also apply to original suits in this Court.

286. Several defendants succeeding upon separate and distinct defences - Where several defendants whether arrayed as appellants or respondents in this Court having separate interests have set up separate and distinct defences, a separate fee as allowable under the Rule applicable to the class to which the case belongs may, if the court so orders, be allowed in respect of the separate interest of each such defendant as may have appeared at the hearing by a separate Advocate and succeeded upon his separate and distinct defence.

This Rule shall with necessary modifications also apply to original suits in this Court.

287. Effect of falsely valuing the claim - Notwithstanding anything contained in these Rules, the Court may order that no sum in respect of Advocate's fee shall be included in the table of costs of a party, in whose plaint, memorandum of appeal or application, as the case may be, the value of the claim has been falsely and dishonestly stated. In such case, the Court may allow such additional sum to be included in the table of costs of the other party on account of Advocate's fee as may appear to it to be reasonable.

288. Fee of Advocate not present - No fee with respect to any Advocate shall unless he is present at the hearing of the case or the Bench hearing the case directs otherwise, be included in the taxation of costs.

289. Fees of state counsel in cases under Court Fees Act, 1870, & Stamp Act, 1899, as adapted to Rajasthan - These Rules shall also regulate the inclusion of Advocate's fee in the taxation of costs in favour of or against the State in cases under the Court fees Act, 1870, as adapted to Rajasthan or the Stamp Act, 1899, as adapted to Rajasthan in which although the Government is not a party, costs are awarded to or against the Government by the Court.

290. Fees of State Counsel in enquiring to pauperism - In an enquiry as to pauperism under order XXXIII of the Code, the fee in respect of the Advocate for the State who as such has opposed the application for permission to sue or appeal as a pauper or has applied for the dispaupering of a plaintiff or an appellant shall be Rs. 75:

Provided that the Court may by special order allow such fee as it may consider proper not exceeding an amount calculated according to the provisions of sub- rule (1) of rule 271.

291. Fee of Advocate's clerk - A sum calculated at the rate of 5 per cent on the taxed fee of the Advocate of a party shall subject to a minimum of two rupees be included in the taxation of costs on account of the fee of such Advocate clerk.

This Rule shall also apply to the clerk of the Government Advocate; the amount so included being on realisation credited to Government.

292. Certificate of Fees - (1) Except in the case of an Advocate appearing for the ¹⁴⁰(Government) or the Court of Wards, no fee shall be included in the taxation of costs unless the Taxing Officer is satisfied that the fee was paid to the Advocate prior to the delivery of the judgment or the order by which costs became payable and unless the party claiming to have such fee included in the taxation of costs has prior to the delivery of such judgment or order filed a certificate signed by the Advocate concerned showing that such fee has actually been paid to him by or on behalf of such party:

Provided that the certificate filed after the time mentioned above but before the judgment or order is signed may for sufficient cause shown be accepted for inclusion in the taxation of costs by the Bench deciding the case.

(2) The certificate under this Rule shall be in the prescribed form and shall be presented by the Advocate or his clerk.—

- (a) if the case is before the Court, to the Reader concerned, and
- (b) in other cases, to the Office between the hours of 11 a.m. and 12 noon.

The person presenting the certificate shall obtain the signature of the officer receiving it on the counterfoil. The officer receiving the certificate shall also endorse thereon the date and the hour of its presentation.

In exceptional cases such certificate may be presented to the Reader or the Registrar between the hours of 3 and 3.30 p. m.

PART-III-CRIMINAL JURISDICTION

CHAPTER XVII

Original Trials

140 : As mentioned in Original Book & in Rajasthan Gazettes, Ordinary, Part 4(a) dated December 14, 1961 Page No. 490.

293. Nomination of a Judge - Every case committed to the High Court for trial under the provisions of the Code of Criminal Procedure, 1898, shall be laid before the Chief Justice for nominating a Judge to preside over the trial.

294. Notice under section 335, Criminal Procedure Code - After the date of hearing has been fixed, such officer as the Chief Justice directs shall give the necessary notice in the Official Gazette as required by sub-section (3) of section 335 of the Code of Criminal Procedure, 1898.

295. Paper Book - As soon as the record has been received, a Paper paper-book shall be prepared. The Paper book shall contain, as nearly as may be, copies of the following papers, namely —

- (i) first information report;
- (ii) confession or statement recorded under section 164 of the Code of Criminal Procedure;
- (iii) dying declaration;
- (iv) injury report;
- (v) post-mortem examination report;
- (vi) Chemical Examiner's report;
- (vii) report of Serologist to the Government of India;
- (viii) record of identification proceedings;
- (ix) other documentary evidence except the site plan;
- (x) complaint, report or information upon which the offence was taken cognizance of by the court making the commitment;
- (xi) statement of witnesses recorded by the court making the commitment;
- (xii) examination of the accused;
- (xiii) charge framed against the accused;
- (xiv) order of commitment;
- (xv) calendar;
- (xvi) such other paper or papers as the Court may direct; and
- (xvii) site plan.

The paper-book shall contain a fly sheet and an index of the papers included therein arranged in the order indicated above.

296. Paper Book to be type-written - The paper-book shall be type-written and six copies thereof shall be prepared.

297. Information to Legal Remembrancer - Three copies of the paper-book shall be retained for the use of the Court and one each shall be supplied to the Legal Remembrancer to the State Government, the Government Advocate and the Advocate for the accused.

298. Summoning of Jurors, witnesses etc - The Clerk of the State¹⁴¹ shall call upon the Sessions Judge of Jodhpur or Jaipur, as the case may be, to secure the attendance of not less than thirty-six jurors in the High Court on the date fixed for the commencement of the session, indicating whether the jurors shall, in view of the provisions of section 276 of the Code of Criminal Procedure, 1898, be summoned from the common jury list or the special jury list.

He shall call upon the District Magistrate of the district from where the commitment has been received to procure the attendance of the accused and the witnesses in the case on the dates fixed for the hearing of the case.

He shall also call upon the District Magistrate of Jodhpur or Jaipur, as the case may be, to arrange for the attendance of an Inspector of Police with a sufficient number of police constables to have charge of the prisoners, to keep order in Court and to attend to such other matters as may be directed by the Court or the Clerk of the State.

299. Service of summonses upon jurors - Every summons to a juror shall be served at least ten clear days before the first day of the commencement of the session.

300. Juror not to be summoned again within twelve months - No juror who has served at any session shall be summoned again within twelve months unless the requisite number of jurors cannot be made up without him.

301. Choosing jurors by lot - In every trial by jury, the jurors shall be chosen by lot in the following manner, namely: —

The Clerk of the State shall cause to be placed together in one box cards containing the numbers of all the persons summoned to serve on the jury in accordance with the order in which their names occur in the list of jurors except those who may have been exempted from attendance. The cards shall as nearly as possible be of the same size. The Clerk of the State shall then in open Court cause the box to be shaken so as to disarrange the cards and then draw or cause to be drawn out of the said box so many of the said cards one after another as may be required to make up the number of the jury.

¹⁴¹ : Under section 4 (e) of the Code of Criminal Procedure, the Chief Justice has specially appointed the Registrar to discharge the functions given by the Code to the Clerk of the State. He has also appointed the Clerk of the State to act under Sec. 334 of the Code of Criminal Procedure, 1898.

302. Locking up jury - The Presiding Judge may pass such orders as he deems fit as to whether and in what manner the jurors shall be kept together under the charge of an officer of the Court or whether they shall be allowed to return to their respective homes.

303. Duties of court officer - It shall be the duty of the Court Officer to be in attendance at the trial, to look after the arrangement regarding the seating of witnesses and jurors, calling them into the Court-rooms as required, the payment of allowances and diet monies to them and other matters connected with the trial.

304. Trial by Jury of certain cases not committed to the Court - Where a case other than a case committed to the High Court is tried by jury, the procedure prescribed for the trial of a case on commitment shall, as nearly as may be, be followed.

305. Cases withdrawn by or transferred to the Court - Where a case is tried by the Court in the exercise of its extraordinary original criminal jurisdiction or where the court withdraws any case for trial before itself under Article 228 of the Constitution or sub-section (2) of section 526 of the Code of Criminal Procedure or orders that the case be committed for trial to or be transferred to itself under sub- section (1) of section 526 A of the Code of Criminal Procedure, 1898, the procedure provided in this Chapter shall, as nearly as may be, be followed, subject to the provisions of section 267 of the Code of Criminal Procedure.

306. Information by Advocate General under section 194 (2) of the Code of Criminal Procedure - In cases coming up to the Court on information exhibited by the Advocate General under sub section (2) of section 194 of the Code of Criminal Procedure, 1898, the trial may proceed as in a summons case or a warrant case or may be tried summarily according as the nature of the case may require. If the Court so directs, any case which may be tried summarily may be tried as a summons case or a warrant case, as the case may be, or any case which may be tried as a summons case may be tried as a warrant case. Any such trial may, if the High Court so directs, be by jury.

CHAPTER XVIII

Proceedings other than original Trials

307. Presentation of petition of appeal or application for revision - Every petition of appeal or application for revision or other application in a criminal matter shall be presented before the official appointed for the purpose by the Registrar, who shall immediately fix a date not more than five days ahead. On that date, the party filing the petition of appeal or application or his

Counsel should attend in office to ascertain the progress of the matter. The official concerned shall in the meanwhile examine the petition or application with a view to seeing whether it is in order, properly stamped and within time and submit a report in the prescribed form to the Registrar.

308. Office report on petition for appeal or application for revision -

The report shall relate to the following matters namely, in the case of an appeal.—

- (i) whether it lies to this Court;
- (ii) whether it is within time;
- (iii) whether it is accompanied by the requisite papers;
- (iv) whether any court-fee is payable and if a court-fee is payable, whether the court-fee paid is sufficient; and
- (v) whether an appeal had been previously filed on behalf of the appellant or any other person tried along with him and if it had been so filed the result, in case the appeal has been decided.

In the case of all revision—

- (i) Whether a revision had been previously filed in the Court of the Sessions Judge or the District Magistrate, as the case may be;
- (ii) whether it has been filed within ninety days excluding the time taken in obtaining the requisite copies;
- (iii) whether it is accompanied by the requisite papers;
- (iv) whether any court-fee is payable and if a court-fee is payable, whether the court-fee paid is sufficient;
- (v) whether an application for revision had been previously filed on behalf of the applicant or any other person tried along with him and if it had been so filed, the result, in case the revision has been decided.

309. Fixation of date of hearing of petitions or application and the procedure for disposal thereof -

(1) The Registrar shall fix in each case a date of hearing by the Bench. Intimation of the date shall be given to the party or his Counsel and his signature taken on the order-sheet in token of receipt of intimation.

(2) The date fixed shall ordinarily not be more than a fortnight ahead.

(3) If a party desires any particular petition or application to be disposed of expeditiously, he should present a separate stamped petition in that behalf and the urgent petition or application will thereupon be placed by the Registrar before the Court as early as possible.

(4) All petitions for the grant of bail will be treated as urgent by the Registrar. Such petitions filed before 1 p.m. on days other than Saturdays should

be placed before the appropriate Bench the same day. Petitions received after 1 p. m. should be placed before the appropriate Bench on the following working day. Petitions received on Saturday should be fixed for the next working day but may, if the Judge is present in Court and has no objection, be dealt with on the same day.

310. Admission or dismissal of an application or petition - The Bench hearing the petition or application may—

- (i) in the case of a petition of appeal make an order admitting it and directing notice to be issued; and
- (ii) in the case of an application for revision or other application dismiss it or direct notice to be issued or pass such other order as it may deem fit;

Provided that nothing contained in this Rule shall preclude the Bench from dismissing any petition of appeal under section 421 of the Code of Criminal Procedure, 1898, or require notice of an application to be issued where notice of such application has already been served upon the other party or his Advocate,

311. Particulars, to be contained in a petition of appeal and application for revision - (1) Every petition of appeal or application for revision shall state—

- (a) the name and, where the appeal or revision is not on behalf of the State, the address of each appellant or applicant;
- (b) the name and, where the opposite party is not the State, the address of each opposite party;
- (c) the Court from whose order the appeal or revision is filed and the name of the presiding officer of such Court;
- (d) the nature of the order passed including the sentence awarded, if any, by such Court;
- (e) the provision of law defining the offence of which the accused person was convicted or acquitted by such Court or under which he was dealt with by such Court;
- (f) the ground or grounds, numbered consecutively, of objection to the order from which the appeal or revision is filed; and
- (g) the relief sought; and shall be signed by the appellant or the applicant, as the case may be, or by an Advocate on his behalf.

(2) A petition of appeal from an appellate order of acquittal or an application for the revision of an order passed in appeal or revision shall also state the name and description of the Court which tried the case in the first instance and the nature of the order passed by it.

(3) In a case in which a sentence of imprisonment has been awarded, the petition of appeal or the application for revision ¹⁴²[or an application under section 561 A Criminal Procedure Code] shall also contain a certificate signed by the Advocate for the appellant or the applicant, as the case may be, stating that the accused was not on bail or that, if he was on bail, he has surrendered to it. In a case in which bail has been granted by the Court appealed from under sub-section (2A) of section 426 of the Code of Criminal Procedure, the fact shall be stated in the petition of appeal.

312. Mentioning of fact of previous presentation of a petition of appeal or application for revision to the officer in-charge of Jail -

Where a petition of appeal or an application for revision has been previously presented by the appellant to the officer-in-charge of the Jail, the petition of appeal or application for revision filed on his behalf through an Advocate shall mention that fact if known to such Advocate.

313. Copies of Judgment or order - Every criminal appeal or revision shall be accompanied by a copy of the judgment or order appealed against or sought to be revised and, where there has been an appeal or a revision in a subordinate court, by copies of the judgments of all the subordinate Courts:

¹⁴³[Provided that if the copies of judgments referred to above are hand- written, they shall be accompanied by uncertified typed copies thereof.]

Provided that the Court may for sufficient cause shown dispense with any such copy.

A petition of appeal in the case of a trial by a jury shall also be accompanied by a copy of the heads of the charge to the jury recorded under sub-section (5) of section 367 of the Code of Criminal Procedure.

314. Petition of appeal, application or affidavit to be accompanied by copies - Every petition of appeal or application or affidavit filed in Court shall be accompanied by as many typed copies thereof as there be parties to be served, together with:—

(i) two extra copies in a Division Bench case or in an application for bail or stay of proceedings in a case pending before a Court of Session;

(ii) one extra copy in every other case.

No order shall issue from the Court on a petition of appeal or application unless the required number of such copies has been supplied.

142 : Added vide Rajasthan Gazette No. 70 dated 10.12.55, Part IV – C, Page 432.

143 : Added vide Rajasthan Gazette No. 40 dated 31.12.59 Part IV – C, Page 1103.

¹⁴⁴[(iii) Two extra typed copies of judgment or order appealed against in a Division Bench case.]

315. Cases to be registered and numbered.- (1) The following applications shall be registered and numbered after presentation as criminal miscellaneous cases, namely:—

- (a) application for bail;
- (b) application for cancellation of bail;
- (c) application for transfer of a case;
- (d) application for withdrawal of a case from a subordinate Court;
- (e) application under section 491 of the Code of Criminal Procedure;
- (f) application under section 99B of the Code of Criminal Procedure;
- (g) application for stay of operation of order of, or proceedings in, a lower Court;
- (h) application for the issue of a writ under Article 226 of the Constitution in a criminal matter;
- (i) application under section 476 or 476A of the Code of Criminal Procedure, 1898; and
- (j) application for the taking of proceedings in contempt of Court.

(2) Cases in which the Court takes proceedings under section 476 or 476A of the Code of Criminal Procedure, 1898, or issues notice for contempt of Court otherwise than on an application and references under section 341 of the Code of Criminal Procedure, 1898, shall also be registered and numbered as criminal miscellaneous cases.

316. Issue of notices - If an appeal is not dismissed summarily, a day shall be fixed for its hearing and notices in the prescribed form shall be issued.

In the case of an application for revision or other application, such date shall be fixed and notices issued if the application is not rejected and an order directing the issue of notice is made.

After notices have been issued in appeal or revision, the record shall be sent for unless otherwise ordered.

In the case of an appeal under section 476B of the Code of Criminal Procedure, 1898, the record of the case out of which the proceedings under appeal arose shall also be sent for unless otherwise ordered.

317. Personal attendance of accused in custody - Where the accused is in custody, his personal attendance shall not be required unless so ordered by the Court. A prayer for the personal attendance of the accused in Court shall not

ordinarily be entertained if not made in sufficient time before the date of hearing to enable arrangements to be made with the superintendent of the jail in which the accused is confined for his attendance in the Court.

318. Jail appeals and revisions - (1) Rules 307, 311 and 314 shall not apply in the case of a petition of appeal or an application for revision presented by an accused who is confined in jail to the officer-in-charge of the jail. Where a petition of appeal or an application for revision has been so presented, the officer-in-charge of the jail shall have recorded thereon the name and other particulars of the applicant or appellant, as the case may be, the particulars of the case from which the appeal or revision arises and the dates when the application for copy of judgment was despatched, when the copy was received and when the appeal or application was presented by the accused, and forwarded such petition or application along with the requisite copies to the Court with as little delay as possible.

(2) On receipt of such petition of appeal or application for revision, the office shall examine it and endorse thereon a report containing as nearly as may be the particulars required under Rule 308 and the Registrar shall thereafter submit it to a Judge for orders. If the case is one which cannot be dealt with by a Judge sitting singly, the orders passed by the Judge shall be laid before another Judge for concurrence before they are issued. If the Judge does not dismiss the appeal or revision summarily and orders notice to be issued, the procedure prescribed for appeals and revisions presented in Court shall as nearly as may be, be followed.

319. Jail appeal to be connected with a previously filed appeal - Jail appeals shall be submitted to a Judge for orders after the expiry of the period of limitation, jail appeals by accused persons convicted in the same trial being submitted together. If a represented appeal arising out of the same case has been presented previously in Court, the fact shall be noted on the fly sheet before the papers are submitted to a Judge for orders and the Judge shall, if such appeal has not already been decided, direct that the appeal be admitted and connected with such previous appeal.

320. When jail appeal is presented beyond time - Where a jail appeal is presented after the expiry of the period of limitation, the officer-in-charge of the jail shall submit along with it a report as to the cause of delay. Where no such report has been submitted, a report shall be called for from the jail concerned as to the cause of delay. Such report shall be laid before the Judge to whom the appeal is submitted for orders.

¹⁴⁵[**321. Information to prisoner of summary dismissal of jail appeal**.- Where a Jail appeal is dismissed summarily under Section 421 of the Code of Criminal Procedure 1898, information shall be sent to the prisoner

145 : Substituted vide Rajasthan Gazette No. 49 dated 17.7.54 Part IV-C P.202-203.

through the officer-in-charge of the prison in which he is lodged and also to the Sessions Judge concerned.]

322. Revisions and other applications from prisoners in jail -

Rules 319, 320 and 321 shall, as nearly as may be, be followed in the case of a jail revision. Other applications received from a prisoner through the officer-in-charge of the jail in which he is confined shall be laid before the appropriate Bench for orders.

323. Application for bail - (1) No application for bail shall be entertained unless the accused has surrendered except where he has been released on bail after conviction under sub-section (2A) of section 426 of the Code of Criminal Procedure. The application shall state that the accused has surrendered and is in custody or that he has after his conviction been released on bail by the lower court under sub-section (2A) of section 426 of the Code of Criminal Procedure, 1898.

(2) Every application for bail in a case which is under investigation or which is pending in a lower court shall state whether applications for bail had or had not been previously made before the Magistrate and the Sessions Judge concerned and the results of such applications, if any.

¹⁴⁶[(3) Every application for bail in a case in which leave has been granted for appeal to the Supreme Court shall state whether any application for bail had been moved in the Supreme Court and if so, with what result.]

¹⁴⁷{(4)} Save in exceptional circumstances, no order for bail shall be made—

(i) on an application relating to cases pending in lower courts, unless notice thereof has been given to the Government Advocate and at least three days have elapsed between the giving of such notice and the hearing of such application, and

(ii) in case of applications relating to appeals and revisions in the High Court, unless notice thereof has been given to the Government Advocate and at least twenty-two hours have elapsed between the giving of such notice and the hearing of such applications, such applications for bail shall indicate that such previous notice has been given to the Government Advocate.

324. Contempt of Court - (1) Where an application for the taking of proceedings in contempt of court is presented before a Judge other than the Chief Justice, he shall direct that it be laid before the Chief Justice for orders. And the Registrar shall, on receipt of a report against any person of contempt of court, lay the papers before the Chief Justice for orders.

146 : Substituted vide Rajasthan Gazette No. 49 dated 17.7.54 Part IV-C P.202-203.

147 : Renumbered vide Rajasthan Gazette No. 49 dated 17.7.54 Part IV-C P.202-203.

¹⁴⁸& ¹⁴⁹[(2) Inserted then deleted]

¹⁵⁰{(3)} Where an order has been made directing that notice be issued to any person to show cause why he should not be punished for contempt of court, a date shall be fixed for hearing and notice thereof in the prescribed form given to the person concerned as also to the Government Advocate. The notice shall contain a substance of the allegations made against such person and require him to appear unless otherwise ordered in person before the Court at the time and on the date specified therein to show cause why he should not be punished for contempt of Court.

325. Reference under section 438 Criminal Procedure Code - (1)

On receipt of a reference from a Sessions Judge or a District Magistrate under section 438 of the Code of Criminal Procedure, 1898, the office shall examine it and see if it is in order and ascertain whether it is accompanied by the explanation of the presiding officer of the Court whose proceedings were under examination by the referring Court as required by rule 80 of General Rule (Criminal), and if not, whether the Court making the reference has given reasons for not submitting such explanation along with the reference. The defects, if any, shall immediately be brought to the notice of the Registrar.

(2) If within two weeks of the receipt of such reference no appearance is put in on behalf of any party, the papers shall be submitted to a Judge in Chambers for orders. Where appearance is put in on behalf of any party before the case is laid before a Judge in Chambers, the case shall be listed in Court for orders.

326. Revision arising out of an order of a Judge on a Sessions statement etc - Where a Judge acting under section 435 of the Code of Criminal Procedure, 1898, directs on the perusal of a sessions statement or a periodical return or a judgment or otherwise that the record be sent for or that notice be given to the accused to show cause why his sentence should not be enhanced, a copy of the order accompanied by all relevant extracts and references, if any, shall be sent to the Criminal Branch of the Judicial Department and the case shall be registered as a revision and proceeded with accordingly.

327. Notices - Notices in different classes of cases shall, unless otherwise ordered, be issued as indicated below, namely—

(1) Appeal: Where an appeal has not been dismissed summarily a notice of the time and place at which such appeal will be heard, shall be given to—

(i) the appellant or his Advocate or where the State is the appellant, to the Government Advocate, and

148 : Inserted vide Rajasthan Government Gazette No. 16, dated 30.4.55, Part IV – C, Page 77

149 : Deleted vide Rajasthan Gazette Part 1 (B) dated 27.3.97 Page 172(1).

150 : Renumbered vide Rajasthan Government Gazette No. 16, dated 30.4.55, Part IV – C, Page 77.

(ii) where the State is not the appellant, to the Government Advocate and where the State is the appellant, to the respondents as also to the Court appealed from.

(2) Revision: Where notice has been directed to be issued, notice shall be given to the applicant, if any, or his Advocate and the Government Advocate, as also to such opposite parties as may be arrayed in the application. Where the State is the applicant, notice shall be given to the Government Advocate and such opposite parties as may be arrayed in the application.

Where the Court acting under section 439 of the Code of Criminal Procedure, 1898, otherwise than on a reference made to it under section 438 directs notice to be issued, notice shall be given to the Government Advocate and the accused or, in a case in which there has been no conviction or acquittal, the parties affected by the order passed in the case.

(3) Reference: where notice has been directed to be issued on a reference under section 438 of the Code of Criminal Procedure, notice shall be given in accordance with clause (2).

On a reference under section 307 of the Code of Criminal Procedure, 1898, notice shall be given to the Government Advocate and the accused.

On a reference under section 374 of the Code of Criminal Procedure, 1898, notice shall be given to the Government Advocate and the accused.

On a reference under section 341 of the Code of Criminal Procedure, 1898, notice shall be given to the Government Advocate and, if possible, to the accused or his guardian or Advocate.

(4) Miscellaneous Application: In a miscellaneous application notice shall be given to the applicant, the Government Advocate and the opposite parties and where the application is on behalf of the State, to the Government Advocate and the opposite parties.

328. Notice to prisoner confined in jail to show cause against enhancement of sentence - Where notice is sent to the officer in charge of a jail for service upon a prisoner confined in the jail calling upon him to show cause why his sentence should not be enhanced, it shall require such officer to serve the notice and return it along with an endorsement showing that the notice has been served upon the prisoner and that he has been informed that he can appear either in person or by an Advocate in the High Court and that if he desires to appear in person, necessary arrangements will be made for his presence in that Court by him through the District Magistrate. It shall further require him to indicate whether the prisoner wishes to appear in person and show cause against his conviction or declines to appear in person or to show cause against such conviction.

329. Rules 228 and 229 to apply to preparation of paper book -

Except as otherwise provided in this Chapter, Rules 228 and 229 of Chapter XIV shall, with necessary modifications and adaptations, apply to the preparation of a paper- book in a criminal case under this Chapter.

330. Paper book in criminal appeal - Copies to be included in the paper- book of a criminal appeal (other than a jail appeal or an appeal under section 476B of the Code of Criminal Procedure, 1898¹⁵¹), or a reference under section 307 or 374 of the Code of Criminal Procedure, 1898, or a case in which the accused has been called upon to show cause why his sentence should not be enhanced shall, unless otherwise ordered, be those of the following papers or such of them as may be on the record of a case, namely—

(A) Papers relating to investigation.—

- (i) first information report;
- (ii) confession or statement recorded under section 164 of the Code of Criminal Procedure;
- (iii) dying declaration;
- (iv) injury report;
- (v) post mortem report;
- (vi) report of the Chemical Examiner;
- (vii) report of the Serologist to the Government of India;
- (viii) record of identification proceeding, and
- (ix) recovery list.

(B) Papers relating to Magisterial Enquiry—

- (i) statements of witnesses recorded by the Magistrate which have been brought on the record of the Sessions Court;
- (ii) examination of the accused and his written statement, if any; and
- (iii) the charge framed against the accused .

(C) Papers relating to proceedings before the Sessions Court —

- (i) amended charge,
- (ii) plea of the accused,
- (iii) statements of witnesses,
- (iv) examination of the accused and his written statements, if any,
- (v) important exhibits other than those covered under heads A & B,
- (vi) in the case of a trial by jury, the heads of the charge to the Jury recorded under sub-section (5) of section 367 of the Code of Criminal Procedure, and
- (vii) Judgment.

151 : Bracket closed vide Rajasthan Gazette No. 13 dated 8.5.54, Part I (b), Page 76.

¹⁵²[(D) Paper relating to trial by Magistrate (in case of an appeal against acquittal).

- (i) Complaint, if any.
- (ii) Statements of witnesses recorded by the Magistrate.
- (iii)** Examination of the accused and his written statement, if any.
- (iv) The charge framed against the accused and his plea.
- (v) Important exhibits other than those covered under head (A).
- (vi) Judgment.”]

¹⁵³(E) High Court papers —

Petition of appeal

331. Paper Book in an appeal under section 476B Criminal Procedure Code - Copies to be included in the paper-book of an appeal under section 476 B of the Code of Criminal Procedure shall, unless otherwise ordered, be those of the following papers or such of them as may be on the record, namely:—

- (a) petitions of appeal,
- (b) judgment or order under appeal,
- (c) application together with annexures, if any, made under section 476 or 476A of the Code of Criminal Procedure,
- (d) reply to such application,
- (e) affidavit filed by the parties relating to the charge,
- (f) evidence recorded at the preliminary enquiry, and
- (g) complaint made in consequence of the judgment or order under appeal.

332. Paper book in a criminal revision - The paper-book of a criminal revision shall consist of the High Court papers.

Where, the copy of the judgment included in the High Court papers is not in English or in the language of the State, a translation of such judgment in English shall also be included in the paper book.

333. Paper book in a reference under section 438, Criminal Procedure Code - The paper-book of a reference under section 438 of the Code of Criminal Procedure, 1898, other than one in which the recommendation is that the sentence passed upon the accused be enhanced, shall, in addition to the fly-sheet and the index, consist of—

- (i) the order for reference,

152 : Inserted vide Rajasthan Gazette No. 86 dated 19.9.53 Part II, P.884.

153 : Renumbered vide Rajasthan Gazette No. 86 dated 19.9.53 Part II, P.884.

- (ii) the explanation, if any, of the Court against whose order the reference has been made,
- (iii) the judgment or order under reference,
- (iv) the memorandum of appeal or revision filed in the Court making the reference.

334. Paper book in a contempt of court case - In a case of contempt of Court, copies to be included in the paper-book, shall, as nearly as may be, be of the following papers, namely—

- (i) application or report or order with relevant annexures, if any, upon which the notice was issued, and
- (ii) the order directing issue of notice.

Copies of the following papers shall be added to the paper-book from time to time as occasion arises, namely—

- (a) affidavits filed in the case;
- (b) orders passed by the Court.

335. Paper book in a reference under Section 341 of the Criminal Procedure Code - In a reference under section 341 of the Code of Criminal Procedure, the paper-book shall, as nearly as may be, be as in the case of criminal appeal.

336. Paper-book in a Jail appeal - The paper-book in a Jail appeal shall consist of a fly sheet and the High Court papers.

337. No paper-book in other cases - In other cases, no paper-book shall be prepared unless otherwise ordered.

338. No paper-book in a case before Single Judge - No paper-book shall as a rule be prepared in a case listed for hearing before a single Judge.

339. Printed paper-book in an appeal to Supreme Court - A printed paper-book shall be prepared only where it is required for the purpose of an appeal in the Supreme Court or where its preparation is specially ordered by the Chief Justice.

340. Printing paper-book to be sent to Supreme Court - As soon as intimation is received of the filing of an appeal in the Supreme Court under Article 134 (1) (a) and (b), or of the grant by the Supreme Court of special leave to appeal in any case, or as soon as leave to appeal to the Supreme Court is

granted in any case by the High Court, the record in the case shall be arranged to be printed in accordance with the Rules of the Supreme Court, and the required number of copies of the printed record shall be despatched to the Registrar of the Supreme Court within the period prescribed by the Supreme Court Rules.

341. Number of printed paper-books - Where a printed paper-book is prepared under these Rules, twenty -five copies thereof shall be printed.

The Registrar may, where necessary, direct a larger number of copies to be printed,

342. Number of type-written paper books - (1) Where a type-written Paper- book is prepared, two copies thereof shall be prepared in a case which may be heard by a Judge sitting alone and three in other cases, one copy being given in either case to the Government Advocate for his use.

(2) The Advocates for the parties may, except in a case of contempt of Court, apply for the preparation of as many copies of such paper book as may be required for their use on payment at such rates as may be fixed by the Chief Justice from time to time. Such copies may be supplied if the Registrar can conveniently arrange to have them prepared by the office. No application for such copies shall be considered if made after the lapse of thirty days from the date on which the appeal is admitted or in the case of a reference under section 307 or 341 of the Code of Criminal Procedure, 1898, after the lapse of thirty days from the date on which such reference is received by the Court, or in a case in which notice has been given to the accused to show cause why his sentence should not be enhanced, after the lapse of thirty days from the date on which such notice is served. ¹⁵⁴[In the case of an appeal under section 417 of the Criminal Procedure Code (Act No. V of 1898), the application may be made within thirty days of the date on which notice of the appeal is served on the accused or a warrant issued for his arrest is executed.]

¹⁵⁵[(3) In case of an appeal under section 417 Criminal Procedure Code and in case where notice is given to the accused to show cause why his sentence should not be enhanced, provided the accused has not filed an appeal against his conviction, a copy of the paper book shall be given to the accused free of cost.

The number of copies to be prepared in such cases shall be increased accordingly.]

¹⁵⁶[(4) The amicus curiae appointed in a case under section 302 I.P.C. Shall get a copy of the paper book free of cost.]

154 : Sentence added vide Rajasthan Gazette No. 141 dated 23.1.54 Part II Page 1578.

155 : Added vide Rajasthan Gazette No. 11 dated 1.5.54, Part I (b), Page 59-65.

156 : Added vide Rajasthan Gazette No. 16 dated 30.4.55, Part IV – C, Page 77.

343. Material exhibits.- When the record of a Sessions case has been received in an appeal or reference under section 307 or 374 of the Code of Criminal Procedure, 1898, and there are material exhibits in the case, the office shall see whether the Judge has recorded an order as required by rule 111 of General Rules (Criminal), regarding such exhibits and whether the exhibits required by such order to be submitted to the High Court have been received. Any defect shall immediately be brought to the notice of the Sessions Judge.

Where there are material exhibits in the case and no order under the rule mentioned above has been recorded by the Judge, his attention shall immediately be drawn to such omission and he shall be asked to state what material exhibits are fit for submission to the High Court and, in case they have not already been forwarded to the Court, to submit them without delay.

344. Custody of material exhibits.- All material exhibits received in a case shall be examined by and kept in charge of the clerk concerned. He shall enter them in the appropriate register showing the number of the case in which and the Court from which each exhibit has been received. He shall see that all such exhibits are in accordance with the list, if any, on the record of the case. Where no such list exists, he shall himself prepare one in duplicate and have it checked and signed by the Superintendent. The duplicate copy of such list shall be sent to the court from which the exhibits have been received, the original being placed on the record of the case. Any discrepancy in the number or condition of exhibits shall immediately be brought to the notice of the Registrar. All valuable exhibits consisting of ornaments, cash or currency notes shall be kept in an iron safe, the key of which shall remain with the Registrar or such officer as he may nominate. All exhibits shall be kept in a locked room.

345. Application or petition by post.- The officer in charge of a jail may forward an application or petition presented to him by a prisoner confined in the jail to the Court by post. Any other application or petition received by post shall be returned for presentation either in person or through an Advocate or where the prisoner is confined in a jail through the officer in charge of the jail concerned.

346. Recommendation for mercy.- In a case in which the Court makes a recommendation to the State Government for the exercise of the prerogative of mercy, copy of the Court's judgment together with a copy of the judgment of the court below shall be forwarded to the State Government along with a letter setting out the recommendation. Where a printed paper book has been prepared, a copy of such paper-book shall also be forwarded along with the letter.

347. Signing of notices and warrants - (a) All summonses and notices issued by the Court in criminal cases shall be signed by the Deputy Registrar, Assistant Registrar or the Superintendent, Judicial.

(b) All warrants issued by the Court in criminal cases shall be signed by the Registrar, the Deputy Registrar or the Assistant Registrar.

348. Registrar to sign complaint under chapter XXXV of the Code of Criminal Procedure - Where an order has been passed under Chapter XXXV of the Code of Criminal Procedure that a complaint be made, such complaint shall be drawn up and signed by the Registrar after it has been approved by the Judge or Judges passing the order.

349. List of ready cases - A list of cases ready for hearing shall be prepared from time to time and posted on the notice board.

350. Adjournment on request by Government Advocate - In special cases if the Government advocate is not ready or needs instructions from the District Magistrate or some other authority or requires the attendance of some officer to instruct him at the time of hearing, he may apply to the Registrar that the case may not be listed for a specified period or that a particular date be fixed for its hearing. The Registrar may thereafter fix a date after consulting the Advocate for the other party.

351. Issue of orders after decision - (1) Where a sentence of death has been confirmed or passed by the Court, an order in the prescribed form shall be issued immediately to the Court concerned. Such order shall be signed by two Judges.

In a case in which a sentence has been set aside or a conviction has been reversed or there has been a reduction or alteration in the nature of the sentence or an accused who is on the bail has been ordered to surrender to his bail on decision of the case, a copy of the relevant entry in the order-sheet shall at once be forwarded to the court concerned along with a letter in the prescribed form.

A copy of the judgment shall in every such case be certified to the court concerned in due course.

(2) In other cases an order in the appropriate form shall be issued to the court concerned as soon as the judgment or order of the Court has been received in the office and shall be accompanied by a copy of such judgment or order.

352. Copy of judgment to be sent to the Magistrate - Where in a case decided by the Court the proceedings of a Magistrate were under consideration, an additional copy of the judgment shall be sent to the Sessions Judge for being forwarded to the Magistrate concerned through the District Magistrate.

353. Copies of paper books to be forwarded to the Government when sentences are passed - In a case in which a sentence of death has

been confirmed or passed by the Court or where a sentence has been enhanced to one of death, two copies of the printed paper-book along with two copies of the Court's judgment shall be forwarded to the State Government. Where no printed paper book has been prepared, the original paper-book containing the proceedings of the court below shall be forwarded along with two copies of the Court's judgment to the State Government with a request that the original paper-book be returned when no longer required.

CHAPTER XIX

Lists of Jurors

354. Persons liable to serve as jurors - Every male person who—

- (i) is above twenty-one and below sixty years of age;
- (ii) resides or personally works for gain within the local limits of the district of Jodhpur or Jaipur as the case may be; and
- (iii) who—
 - (a) is the occupier of a house situated within the said local limits of the annual value of not less than Rs. 400; or
 - (b) owns immovable property within the State of Rajasthan of the value of not less than Rs. 3,000; or
 - (c) is in receipt of an income of not less than Rs. 125 per mensem;

shall, subject to the exceptions mentioned in the next following Rules, be liable to serve as a juror at the criminal sessions of this Court.

355. Ineligibility for service as juror - Any person—

- (a) who holds any office or employment in or under the Court,
- (b) who is a police officer or is engaged in any preventive service;
- (c) who has been convicted of a non-bailable offence;
- (d) who is suffering from such bodily or mental infirmity as incapacitates him from serving as a juror; or
- (e) who is unable to understand the language of the

Court, shall be ineligible for service as a juror.

356. Exemptions - The following persons are exempt from liability to serve as jurors, namely—

- (1) officers in civil employ superior in rank to district magistrate;
- (2) salaried judges;

- (3) ministers and parliamentary secretaries;
- (4) members of any Legislature in India;
- (5) members of the personal staff of His Highness the Rajpramukh;
- (6) secretaries to Government;
- (7) secretary to the Board of Revenue;
- (8) Legal Remembrancer to Government;
- (9) salaried Magistrates;
- (10) all persons actually officiating as priests or ministers of their respective religions;
- (11) legal practitioners in actual practice;
- (12) agents or managers of banks;
- (13) persons employed in the Postal and Telegraph Departments;
- (14) surgeons and physicians who openly and constantly practice the profession of medicine;
- (15) the under-mentioned railway officers —
 - (i) Divisional Superintendent;
 - (ii) District Engineer;
 - (iii) Station Masters and Assistant Station Masters;
 - (iv) Permanent Way Inspectors;
 - (v) Locomotive Foremen and Engine Drivers;
- (16) Officer Commanding at Jodhpur or Jaipur;
- (17) all persons exempted by the State Government from personal appearance in Court under section 133 of the Code of Civil Procedure, and
- (18) all persons exempted by the State Government from serving as a juror under sub-section (4) of section 313 or clause (1) of section 320 of the Code of Criminal Procedure.

357. Preliminary lists of common and special jurors - The Clerk of the State shall prepare by the twenty-fifth day of March each year preliminary lists of common and special jurors for Jodhpur and Jaipur respectively containing such numbers of names as he may consider fit of persons appearing to him after due inquiry to be qualified and liable under the foregoing Rules to serve as jurors. Such lists shall describe each person's style, calling, place of residence and the qualification which makes him liable to serve as a juror and shall be signed by the Clerk of the State.

(2) In preparing the list of special jurors, the Clerk of the State shall keep in view the provisions of sub-section (2) of section 313 and section 325 of the Code of Criminal Procedure.

358. Publication of preliminary lists - Copies of lists shall be affixed to some conspicuous part of the Court house at Jodhpur or Jaipur, as the case may be, and the lists shall also be published in the Official Gazette before the seventh day of April next after their preparation.

359. Revised lists - Any person whose name has been improperly inserted in or omitted from such lists or who is wrongly or defectively described in them may on or before the twentieth day of April following the publication of such lists apply to the Clerk of the State for the correction and amendment of such lists and the Clerk of the State shall forthwith make all such corrections as shall seem to him to be necessary. The revised lists shall be published in the Official Gazette before the first day of May next after their preparation.

Copies of the revised lists shall also be affixed to some conspicuous part of the Court House at Jodhpur or Jaipur, as the case may be.

CHAPTER XX

Examination of Judgments of Sessions Judges

360. Submission of Judgments in Sessions trial to Judges - (1) Copies of judgments in sessions trials received monthly from Sessions Judges shall remain with the Superintendent, Judicial Department, for two months from the last date of the month in which such judgments are received and shall thereafter be submitted without delay to Judges for perusal and orders in groups as approved by the Chief Justice. The same group shall be submitted to one and the same Judge for two consecutive months. Before such judgments are submitted to Judges, they shall be duly entered in the appropriate register and a note made on each judgment after an examination of relevant registers whether an appeal or application for revision from such judgment has been received or filed in Court. Where no appeal lies to the High Court, a note shall be made on the judgment to that effect. Judgments shall be submitted to Judges in separate batches under appropriate heads.

(2) During the long vacation such judgments shall be submitted only to Judges sitting during the vacation in equal proportions.

361. Orders by the Judge - Where a Judge on a perusal of a judgment directs that the record be sent for or notice issued, the appropriate procedure prescribed by these Rules therefor shall be followed. If the order passed by the Judge contains a criticism of the judgment; it shall be put up before the Registrar for necessary orders.

362. Register of Submission of judgments to Judges - The Superintendent, Judicial Department, shall make a note in the appropriate register of the date of submission of each judgment to the Judge concerned and shall within two months from such date obtain from that Judge its return

together with his order, if any, thereon and shall also record the date of such return in the register.

PART-IV
ENFORCEMENT OF FUNDAMENTAL RIGHTS
CHAPTER XXI

Habeas Corpus and Rules under sub-section (2) of section 491 of the Code of Criminal Procedure, 1898.

363. Application - An application under sub-section (1) of section 491 of the Code of Criminal Procedure or for a writ in the nature of *habeas corpus*, if not sent by post, shall be presented to the Registrar who shall direct that the application be laid before a Division Bench for orders.

364. Application by Post - The application if received by post shall be put up as soon as possible after the receipt thereof before a Division Bench for orders.

365. Contents of Application & Affidavit - The application shall be accompanied by an affidavit of the person restrained stating that it is made at his instance and setting out the nature and the circumstances of such restraint. It shall also state if any previous application had been filed or not on his behalf and, in case such application had been filed, its result;

Provided that where the person restrained is unable owing to the restraint to make the affidavit, the application shall be accompanied by an affidavit to the like effect made by some other person and such affidavit shall also state the reason why the person restrained is unable to make the affidavit himself.

366. Application by Court-martial or any Commissioners - Where the application is on behalf of a court-martial or any Commissioners under clause (d) of sub-section (1) of section 491 of the Code of Criminal Procedure, 1898, it may be in the form of a letter addressed to the Registrar setting out the circumstances in which the order is sought and need not be accompanied by an affidavit. The Registrar shall lay the letter as soon as possible after the receipt thereof before a Division Bench for orders.

367. Contents of application under section 491(1) (e) of the Code of Criminal Procedure - Where the application is for an order under clause (e) of sub-section (1) of section 491 of the Code of Criminal Procedure, the affidavit accompanying it shall state in whose custody the prisoner is detained, to what other custody it is proposed to remove him and the reason for the change of custody. Before any orders are passed, notice of such application shall

be served upon the prisoner and he shall be given an opportunity to be heard against such application.

368. Warrant - In any case in which the Court orders any person in custody to be brought before it, or before a Court-martial or before any Commissioners, or to be removed from one custody to another a warrant shall be prepared and signed by the Registrar and sealed with the seal of the Court.

369. Service of warrant - Such warrant shall, where the person is under detention in a jail, be forwarded by the Registrar to the officer-in-charge of the jail in which the prisoner is confined; in every other case the warrant shall be served upon the person to whom it is directed, personally or otherwise as the Court may direct.

370. Notice - If the Court does not find sufficient reason to admit the application, it may reject it. Where the application is not so rejected, notice thereof shall be served upon the person against whom the order is sought calling upon him to appear on a day to be named therein to show cause why the application should not be granted, and, if the Court so orders, the notice may also direct such person at the same time to produce in Court the body of the person alleged to be illegally or improperly detained then and there to be dealt with according to law.

The Court may also order that notice of the application be served upon such other person or persons as it may consider proper. Such notice shall, if the Court so directs, be accompanied by copies of the application and the affidavit, the copies being supplied by the applicant.

371. Orders on application - After the service of notice, on the day fixed for hearing or on any subsequent day to which the hearing may be adjourned, if no cause is shown or if cause is shown and disallowed, the Court shall in the case of a person found to be illegally or improperly detained, pass an order that he be set at liberty or delivered to the person entitled to his custody. In other case the Court shall pass such orders as the circumstances of the case may require. If cause is allowed, the application shall be dismissed. The order for release made by the Court shall be a sufficient warrant to any gaoler or other public servant, or other person for the release of the person under restraint.

372. Procedure - All questions arising for determination under this Chapter shall be decided ordinarily upon affidavits but the Court may direct that such questions as it may consider necessary be decided on such other evidence as it may deem fit and in that case it may follow such procedure as it may deem just.

373. Costs - In disposing of an application under this Chapter, the Court may make such order as to costs as it may consider just.

374. Communication of orders - Any orders passed by the court shall be communicated for compliance to such person or persons as may be necessary.

CHAPTER XXII

Direction, order or writ under Article 226 of the Constitution other than a writ in the Nature of HABEAS CORPUS

375. Application and its contents - ¹⁵⁷[(1) An application for a direction under Article, 226 of the Constitution other than a writ in the nature of habeas corpus shall be presented to the Registrar who shall direct that the application be laid before a Division Bench or a Judge sitting alone, as the case may be, according to the provisions of Rule 55 for orders.]

¹⁵⁸[Provided that the following matters shall ordinarily be laid for orders before a Judge sitting alone :-

(a) Matters arising out of Municipal or Panchayat elections in which the constitutionality of any provision of law is not challenged.

(b) Applications relating to orders of Gram Panchayats, Tehsil Panchayats, or District and Sessions Judges purporting to have been passed under the Gram Panchayat Act.]

(2) The application shall state clearly the relief sought and the grounds upon which it is sought and be accompanied by an affidavit verifying the facts relied upon.

¹⁵⁹[(3) The application shall also state whether or not any similar application has been made to the Supreme Court.”]

¹⁶⁰[(4) An application by more than one person shall not be entertained except when the relief claimed is founded on the same cause of action.]

¹⁶¹[(5) The application shall be accompanied by a memorandum giving an address at which service of process may be made on the petitioner. This address shall be called the registered address and it shall hold good till the final decision of the petition and the appeal, if any, filed in the case.

(6) The address shall be within the local limits of the Jodhpur Municipality or of the court of District Judge within which the petitioner ordinarily resides, if within the limits of the State of Rajasthan.

157 : Substituted vide Rajasthan Gazette Part 4(C) dated 6.12.64, Page 554(3).

158 : Added vide Rajasthan Gazette No. 10, dated 9.6.56, Part IV – C, Page 199 then Substituted vide Rajasthan Gazette No. 3 dated 16.4.59, Part IV-C at Page 65.

159 : Added vide Rajasthan Gazette No. 20 dated 22.5.54 Part I(b) Page 99.

160 : Inserted vide Rajasthan Gazette Part 4(C) dated 6.12.64, Page 554(3).

161 : Added vide Rajasthan Gazette Part IV-C dated 11.1.73 Page 708(45).

(7) Where a petitioner fails to file an address file an address for service, his petition may be liable to be rejected by the Court Suo motu or on an application by any party to the petition. The Court shall however have power to extend time for furnishing the required address or make such other order as it may think fit.

(8) Where a petition is rejected under sub-rule (7), the petitioner may apply for an order to set the rejection aside and if he files a registered address and satisfies the Court that he was prevented by any sufficient cause from filing the registered address at the proper time, the Court shall set aside the rejection upon such terms as to costs or otherwise as it thinks fit, and shall appoint a day the proceeding with the petition.

(9) When the petitioner desires to change the address for service given by him as aforesaid, he shall file a signed statement of such change with copies thereof for all the respondents, and the Court may direct the amendment of the address accordingly.

(10) Where the petitioner is not found at the address given by him for service and no agent or adult male member of his family on whom a process can be served, is present, a copy off the process shall be affixed to the outdoor of the house. If on the date fixed, the petitioner is not present and the process is not declared by the Court to have been duly served, a date shall be fixed and a copy of the process shall be sent to the registered address by registered post and such service shall be deemed to be as effectual as if the process had been personally served.

(11) Any process served on the Advocated engaged by the petitioner or left at the office or residence of such Advocate shall be deemed to be due service on the petitioner and unless the court otherwise directs shall be as effectual for all purposes as if the same had been given to or served on the petitioner in person.

(12) Nothing in the preceding sub-rules shall prejudice the court's power from directing the service of a notice or process in any other manner, as it may think fit to do.”]

¹⁶²[**375-A. Applications for a rule nisi** - Unless otherwise ordered by the Court, all applications for a rule nisi shall be made ex-parte in the first instance, before the Court, on such day or days and at such time or times as is fixed by the Court:

Provided that an application for a rule nisi involving revenue law shall not be moved, unless the Judge otherwise directs, serving a forty eight hours prior notice also with a copy of the application under Article 226 of the Constitution proposed to be moved on the administrative Head of the Department concerned with the administration of the revenue law.]

162 : Added vide Notification 2/SRO dated 31.3.1975 published in Rajasthan Gazette, Part-IV(C) dated 29.5.1975, Pg.169(27).

376. Notice - If the Court does not find sufficient reason to admit the application, it may reject it. Where the application is not so rejected, notice thereof shall be served on all persons directly affected by it. Where the application relates to any proceeding in or before a Court and the object is either to compel the Court or an officer thereof to do any act in relation to such proceeding or to quash them or any order made therein, notice thereof shall also be served on such Court or officer as well as the other parties to such proceeding, and where any objection is taken with respect to the conduct of a Judge, also on the Judge.

377. Notice to person not already served -If at the hearing of the application the Court is of opinion that any person who ought to have been served with notice of the application has not been so served, the Court may order that notice may also be served on such person and adjourn the hearing upon such terms, if any, as the Court may consider proper.

Every notice under this or the next preceding Rule shall be accompanied by copies of the application and the affidavit, such copies being supplied by the applicant.

378. Conditions as to costs or giving of security before issue of notice - The Court may, before issuing notice of the application, impose upon the applicant such terms as to costs or the giving of security as it may think fit.

¹⁶³**[378-A. Registered address of the respondent** - (1) Every respondent, except the State of Rajasthan and the Union Government, who appears, shall on or before the date fixed in the notice or the process served on him, file in Court a memorandum giving his address for service and, if he fails to do so, his defence, if any shall be liable to be struck out and he shall be placed in the same position as if he had not defended. In this respect the Court may act suo motu or on the application of any party for an order to such effect, and the Court may make such order as it think just.

(2) Sub-rules (5), (6), (8), (9), (10), (11) and (12) of rule 375 shall apply, so far as may be, to addresses for service filed under the preceding sub-rule.”]

379. Application to be heard at least eight clear days after service of notice - ¹⁶⁴[(1) Unless the Court otherwise directs, the party on whom a notice is served under rule 376 shall file a written statement, reply or affidavit within a period of ¹⁶⁵(four) months from the date of service of the notice, and shall also file along with it a written acknowledgment from the opposite party or his counsel of his having received a copy thereof :

163 : Added vide Rajasthan Gazette Part IV-C dated 11.1.73 Page 708(45).

164 : Substituted vide Notification No. 2/SRO Dated 6.11.73.

165 : Substituted vide Rajasthan Gazette No.21, Part IV-C dt. 21.8.74, pg. 193.

Provided that instead of filing the written acknowledgment mentioned above, the party may, while filing a written statement, reply or affidavit, apply to the Deputy registrar, to have its copy served on the applicant or his counsel.]

¹⁶⁶&¹⁶⁷[(2) Unless the Court otherwise directs, an application referred to in rule 375 shall be heard at least ¹⁶⁸(five) clear months after the service of the notice issued under rule 376.]

380. Hearing person not served with notice - At the hearing of the application, any person who desires to be heard in opposition to the application and appears to the Court to be a proper person to be heard, may be heard notwithstanding that he has not been served with notice under Rule 376 or 377.

381. Application to be made by Advocate - An application under this Chapter shall be made by an Advocate and not by the party personally.

382. No second application on the same facts - Where an application has been rejected, it shall not be competent for the applicant to make a second application on the same facts.

383. Procedure - All questions arising for determination under this Chapter shall be decided ordinarily upon affidavits, but the Court may direct that such questions as it may consider necessary be decided on such other evidence as it may deem fit and in that case it may follow such procedure as it may deem just.

384. Costs - In disposing of an application under this Chapter the Court may make such orders as to costs as it may consider just.

385. Communication of orders - Any orders passed by the Court shall be communicated for compliance to such person or persons as may be necessary.

¹⁶⁹[CHAPTER XXII A

PUBLIC INTEREST LITIGATION

Public Interest Litigation (PIL) Generally

¹⁶⁶ : Inserted vide Rajasthan Gazette No. 9/8 Dated 23.5.57, Part IV- C, Page 67.

¹⁶⁷ : Substituted vide Notification No. 2/SRO Dated 6.11.73.

¹⁶⁸ : Substituted vide Rajasthan Gazette No.21, Part IV-C dt. 21.8.74, pg. 193.

¹⁶⁹ : Inserted vide Notification No. 5/S.R.O./2010 Dated: 30-4- 2010 pub. In Raj.Gaz. part I (B), 6.5.2010 page 12-16.

385-A. Public Interest Litigation (PIL) - (1) The Court may take up and deal with any matter relating to a public cause or of public interest by way of a petition registered as “PIL Petition” in accordance with the provisions contained in this Chapter.

(2) Save as provided in this Chapter, the provisions contained in these rules in relation to the petitions under Article 226 of the Constitution of India shall generally apply to every petition registered as a PIL Petition.

385-B. PIL Petition to be heard ordinarily by a Division Bench -

Every matter to be taken up as PIL Petition, whether on a regularly filed petition or upon a letter petition or upon suo motu cognizance, shall be separately registered as “PIL Petition”; and every such PIL Petition shall, unless otherwise ordered by the Chief Justice, be laid before and dealt with by a Division Bench:

Provided that any PIL Petition entertained and dealt with by a Division Bench shall ordinarily be placed before the same Bench always unless otherwise ordered by the Chief Justice.

385-C. Interim orders - In any matter taken up as PIL Petition, whether on a regularly filed petition or upon a letter petition or upon suo motu cognizance, it shall be permissible for the Court to pass any interim order at any stage of the proceedings against any person/authority whether specifically joined in the petition or not, as considered expedient to secure the ends of justice:

Explanation:- The Judge or Judges taking suo motu cognizance of a matter to be dealt with as PIL Petition may also pass any interim order as considered necessary looking to the given circumstances and exigencies; and such interim order shall continue to operate unless otherwise ordered by the Bench dealing with the matter after registration.

385-D. Priority in PIL Petitions - The PIL Petition considered involving larger public interest, gravity, and urgency, shall be given priority over other petitions.

Regular PIL Petition

385-E. Filing of PIL Petition - A petition, drawn as nearly as possible in conformity with the Format appended to these, rules could be filed in the High Court espousing a public cause in the nature of regular public interest petition by an individual or by individuals having social public standing/professional status/public spirited antecedents. Such petition could also be filed by or with any social action group or a non-governmental organization:

Provided that in every petition filed in public interest, the particulars of the petitioner, or of the petitioners when there be more than one petitioner, shall be distinctly stated; and the petition shall carry photograph as well as address proof of every individual petitioner and so also of the deponent filing the affidavit in support of the petition:

Provided further that in every petition filed by or with any social action group or non-governmental organisation, a specific resolution of such group or organisation to file such petition while authorising particular person or persons to prosecute the matter shall also be annexed to the petition.

385-F. Facts to be disclosed - A petition filed in public interest shall disclose-

- (1) the social public standing/professional status and public spirited antecedents of the petitioner/petitioners;
- (2) the sources of finance for meeting the expenditure related with the petition alongwith Permanent Account Number, if any, with the Income Tax Department;
- (3) the source of the information on which the averments made in the petition are based;
- (4) the facts constituting the cause;
- (5) the nature of injury caused or likely to be caused to the public;
- (6) the nature and extent of the personal interest, if any, of the petitioner/petitioners involved in the cause; and
- (7) as to whether the petitioner, or any of the petitioners when there are more than one, is or has been involved in any other civil, revenue, criminal litigation in any capacity before any Court or Tribunal and if so, complete details of such litigation including the subject matter thereof.

385-G. Prima facie proof and affidavits - A petition filed in public interest shall, as far as practicable, be supported by prima facie proof, and an affidavit, on each substantive averment/allegation.

385-H. Declaration necessary - (1) A petition filed in public interest shall contain a declaration of the petitioner/petitioners that a thorough research has been conducted in the matter raised through the public interest litigation; and all the relevant material in respect of such research shall be annexed with the petition.

(2) A petition filed in public interest shall further contain a declaration of the petitioner/petitioners that to the best of his/their knowledge and research, the issue raised was not dealt with or decided and that a similar or identical petition was not filed earlier by any person; and in case, such an issue was dealt with or a similar or identical petition was filed earlier, its status or the result.

385-I. The Court may ask for security - The Court may at any time during the course of hearing of the matter filed in public interest require the petitioner/petitioners to furnish security of such nature as considered appropriate towards costs or any other charges; and it shall be required of every petitioner to state an undertaking to comply with such requirements.

Letter Petitions

385-J. Hearing of Letter Petitions on judicial side - No Letter Petition shall be heard on judicial side unless registered as a PIL Petition in accordance with the procedure provided in this Chapter.

385-K. Letter Petition addressed to the Chief Justice or any Judge -

(a) Letter petition, addressed to the Chief Justice and directed by him to be registered as PIL Petition, shall be so registered.

(b) Letter petition, addressed to a Judge of the High Court, may be forwarded by him to the Chief Justice for consideration.

385-L. Letter Petitions Cell - There shall be a Letter Petitions Cell in the Court, headed by the Deputy Registrar (Judicial) comprising such Officers of the Registry as members as may, from time to time, be nominated by the Chief Justice.

385-M. Procedure for scrutiny of Letter Petitions and registration of PIL Petition thereupon - (1) All Letter Petitions other than those mentioned in rule 385-K above, shall be forwarded to the Registrar (Judicial) in original, who shall mark it to a member of the Letter Petitions Cell for scrutiny. The member shall scrutinize the Letter Petition so marked in the light of the guidelines contained in this Chapter or as may, from time to time, be issued by the Chief Justice. After scrutiny, the Letter Petition shall be submitted with scrutiny-note to the Chief Justice or to a Judge or a Committee of Judges, nominated for the purpose by the Chief Justice.

(2) The Chief Justice or the Judge or the committee of Judges nominated by the Chief Justice, may either direct that the Letter Petition be registered as PIL Petition or may pass such other order as deemed fit.

(3) Where the Judge or the Committee of Judges nominated by the Chief Justice, directs registration of a Letter Petition as a PIL Petition, the same shall be so registered and placed before the Chief Justice for assignment to a Bench for hearing:

Provided that the Chief Justice or the Judge or the Committee of Judges as referred above, before directing a Letter Petition to be registered as a PIL Petition may cause any such enquiry to be made in relation to the petitioner, and may require such further and better particulars from the petitioner, as deemed proper and necessary.

(4) No one shall have a right to be heard by the Chief Justice or by the Judge or the Committee of Judges nominated by the Chief Justice in respect of a Letter Petition before its registration; and no correspondence shall be entertained in respect of any Letter Petition.

(5) The High Court shall not be obliged to maintain a record of every Letter Petition; nor shall the Chief Justice or the Judge or the Committee of Judges nominated by the Chief Justice, be bound to assign or communicate reasons for any order made under sub-rules (2) and (3) of this rule.

385-N. Bar on certain matters to be registered as PIL Petition on a Letter Petition -

(1) No Letter Petition espousing individual/personal cause, or any such cause as may from time to time be specified by the High Court, shall be entertained as a PIL Petition.

(2) Ordinarily, a letter petition shall not be directed to be registered simply because the petitioner lacks financial resources to prosecute the remedy available to him under the law.

In such cases, appropriate direction to the Legal Services Committee or the State Legal Services Authority may be made by the Chief Justice or by the Judge or the Committee of the Judges nominated by the Chief Justice.

385-O. Saving of the powers of the Chief Justice - Nothing contained in these rules shall be deemed to restrict the powers of the Chief Justice to register a Letter Petition in his discretion.

Suo motu Cognizance

385-P. Power to take suo motu cognizance - Nothing contained in these Rules shall be considered de-limiting or restricting the powers of the Judges of the Court whether sitting singly or otherwise to take cognizance of any matter that would appear to be of public interest requiring intervention of the Court. The procedure as set forth hereafter will be followed in such matters.

385-Q. Registration and assignment of PIL Petition upon suo motu cognizance - Upon an order having been drawn by a Judge or by Judges of the Court during the course of hearing of any matter or otherwise, in relation to any cause, matter, or issue that has come to his or their knowledge having the element of public interest involved and requiring intervention of the Court, such order together with such other material as may be directed shall immediately be registered as a PIL Petition and shall be placed before the Chief Justice for assignment to appropriate Bench.

385-R. Amicus Curiae - In a petition registered as PIL Petition upon taking of suo motu cognizance as aforesaid, it shall be permissible for the Bench dealing with the matter to request any lawyer or lawyers to render assistance in the matter who shall act as Amicus Curiae on such terms as may be settled by the Court looking to the nature and circumstances of the case.]

Part V

CHAPTER XXIII

Appeals to the Supreme Court of India

Section A — Cases Other Than Criminal Cases

386. Title of petition - A petition for leave to appeal to the Supreme Court of India shall be entitled:

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN

**Petition for Leave to Appeal
to
the Supreme Court of India**

under.....

Supreme Court Appeal No. of.....from
.....No.....of

.....Petitioner. Versus

.....Opposite Party.

387. Contents of petition - The petition shall contain a brief statement of the case and the grounds of appeal.

In a case falling under section 110 of the Code or Article 133 (1) of the Constitution, it shall clearly state how it fulfils the requirements of law as regards the amount or value of the subject-matter or how it is otherwise a fit case for appeal to the Supreme Court.

In a case falling under Article 132 (1) of the Constitution, it shall state how a substantial question of law as to the interpretation of the Constitution is involved.

In a case falling under Article 135., it shall state how an appeal lies to the Supreme Court.

¹⁷⁰[It shall not be necessary to file a copy of the Judgment, decree or final order with a petition under this rule.]

170 : Added vide Rajasthan Gazette No. 49 dated 17.7.54 Part IV- C P.202-203.

¹⁷¹[**388. Limitation.-** Article 132 of the Schedule – Third Division Applications – of the Limitation Act (Act No. 36 of 1963) shall subject to the provisions of any law for the time being in force, also apply to a petition for a certificate under Article 132(1), 133(1) or 135 of the Constitution.]

389. Notices - (1) In connection with Supreme Court appeals, Notices, the following notices shall be issued, namely —

(a) notice of petition for a certificate;

¹⁷²(b) Notice of lodgment of appeal in the Supreme Court.

¹⁷³(c) deleted

No other notice shall be necessary unless expressly provided for in these Rules or ordered by the Court.

(2) In all cases where a party has appeared by an Advocate, service of notice on such Advocate shall be deemed to be sufficient service.

(3) No process fee shall be levied in the case of a notice under clause (b) or (c) of sub-rule (1) where it may be served upon an Advocate.

¹⁷⁴(4) As soon as notice under clause (b) is served a certificate as to the date or dates on which the said notice was served shall be sent to the Supreme Court.

¹⁷⁵[**390.** Deleted

391. Deleted

392. Deleted]

393. No security for respondent's costs where appeal is by Government - No Security for the costs of the respondent shall be required where the Government is the appellant to the Supreme Court.

¹⁷⁶**394. Application for preparation of Record and estimate -**“When the certificate for leave to appeal to the Supreme Court has been granted, the petitioner shall take necessary steps for preparation of record as provided in rules 14 to 28, Order XV of the Supreme Court Rules, 1966”.

171 : Substituted vide Rajasthan Gazette Part IV-C Dated 17.6.65 Page 240 (30) & Repeated in Notification No. G.S.R. 4(S.R.O.2) dt. 28.1.71, published in Raj. Gaz. No.2 dt. 8.4.71, Pt.. IV-C(i).

172 : Substituted vide Rajasthan Gazette Part 4 (C) Dated 23.2.67 Page 625 to 628.

173 : Deleted vide Rajasthan Gazette Part 4 (C) Dated 23.2.67 Page 625 to 628.

174 : Inserted vide Rajasthan Gazette Part 4 (C) Dated 23.2.67 Page 625 to 628.

175 : Deleted vide Rajasthan Gazette Part 4 (C) Dated 23.2.67 Page 625 to 628.

176 : Substituted vide Rajasthan Gazette Part 4 (C) Dated 23.2.67 Page 625 to 628.

¹⁷⁷[**395.** Deleted

396. Deleted

397. Deleted

398. Deleted

399. Deleted]

¹⁷⁸[**400. Translation of papers** - (1) Where the proceedings from which the appeal to the Supreme Court arises were had in this Court or the Courts below in a language other than English, the Registrar shall within three months from the date of the service on the respondent of the notice of petition of appeal transmit to the Supreme Court in triplicate a transcript in English of the record proper of the appeal to be laid before the Supreme Court, one copy of which shall be duly authenticated.

(2) Unless otherwise ordered by the Supreme Court the Registrar shall thereafter transmit to the Supreme Court at the expense of the appellant the original record of the case.]

¹⁷⁹[**401.** Deleted.

402. Deleted.

403. Deleted.

404. Deleted.

405. Deleted.

406. Deleted.

407. Deleted.

408. Deleted.

409. Deleted.

410. Deleted.

411. Deleted.

177 : Deleted vide Rajasthan Gazette Part 4 (C) Dated 23.2.67 Page 625 to 628.

178 : Substituted vide Rajasthan Gazette Part 4-C Dated 23.2.67 Pg 625 to 628.

179 : Deleted vide Rajasthan Gazette Part 4 (C) Dated 23.2.67 Page 625 to 628

412. Deleted.]

¹⁸⁰[**412-A. Rules for preparation of Records** - When the record of the case is desired to be prepared in this Court, the provisions contained in rules 14 to 28, Order XV of the Supreme Court Rules, 1966 shall apply mutatis mutandis.]

Section B—Criminal Cases

413. (a) Application for a certificate under Article 132 (1) or 134 (1) (c) of the Constitution - An application for a certificate under Article 132 (1) or 134 (1) (c) of the Constitution in a criminal proceeding may be made orally to the Court before or at the time when any judgment, final order or sentence is passed. The Court shall thereupon record an order granting or refusing to grant such certificate. Where no such oral application is made, a written application for such certificate may be made within ¹⁸¹(sixty) days from the date of such judgment, final order or sentence and no application made beyond that period shall be entertained:

Provided that the Court may for sufficient cause shown extend the time.

¹⁸²[(b) It shall not be necessary to file a copy of the Judgment, final order or sentence with an application under sub-rule (a).] ¹⁸³[It shall further contain a certificate signed by the Advocate for the applicant stating that the accused was not on bail or that, if he was on bail, he has surrendered to it.]

¹⁸⁴{(c)} **Contents of application** - The application shall state succinctly and clearly such facts as it may be necessary to state in order to enable the Court to determine whether such certificate ought to be granted and shall be signed by the applicant or his Advocate.

¹⁸⁵{(d)} **Notice of application** - If the Court does not find sufficient reason to admit the application, it shall reject it. Where the application is not so rejected, it shall be heard after notice thereof has been given to the Government Advocate and where the application is on behalf of the Government, to the respondent.

414. Stay of sentence or order and grant of bail - On the applicant executing a bond with or without sureties undertaking to lodge an appeal in the Supreme Court within the prescribed time, the Court may—

(1) order that the execution of the sentence or order be stayed; or

180 : Inserted vide Raj. Gaz. Part 4-C Dated 23.2.67 Pg 625 to 628.

181 : Substituted vide Raj. Gaz. Part 4 (C) Dt 17.6.65 Pg 240(30).

182 : Inserted vide Rajasthan Gazette No. 49 dated 17.7.54 Part IV-C P.202-203.

183 : Added vide Raj. Gaz. No. 70 dt 10.12.55, Part IV – C, Pg 432.

184 : Renumbered vide Rajasthan Gazette No. 49 dated 17.7.54 Part IV-C P.202-203

185 : Renumbered vide Rajasthan Gazette No. 49 dated 17.7.54 Part IV-C P.202-203

(2) where the applicant is in confinement, admit him to bail on such terms as the Court may think fit pending the disposal of the application or where a certificate is granted, pending the lodging of an appeal in the Supreme Court.

Where the application is by the Government, no such bond shall be required before an order under this Rule is made.

¹⁸⁶**415. Preparation & printing of record** - When the record of the case is desired to be prepared in this Court, the provisions contained in rules 17 to 22, Order XXI of the Supreme Court Rules, 1966 shall apply mutatis mutandis.

¹⁸⁷**416.** Deleted.

417. Deleted.

418. Deleted.

419. Deleted.

420. Deleted.]

PART VI

CHAPTER XXIV

SECTION A

Qualifications and Admission of Advocates

421. Qualification for Advocates - The following persons shall be qualified for admission as Advocates of the High Court:—(a) Any person who is a Barrister of England or Ireland, or a member of the Faculty of Advocates in Scotland.

¹⁸⁸[(b) Any person who holds the LL.B or any other higher or equivalent degree of any university established by law in the Union of India or who obtained any such degree from the University of Dacca, Lahore or Sind before August 15, 1947, or who has passed the Advocates Examination held by the Bombay Bar Council constituted under the Indian Bar Councils Act, 1926, and (a) who has bonafide practised in one or more of the Courts subordinate to the Rajasthan High Court for a period of not less than two years, or (b) who has held Judicial Office for a period of not less than five years in British India, Dominion of India or

186 : Substituted vide Rajasthan Gazette Part 4(C) Dated 23.2.67 Page 625 to 628.

187 : Deleted vide Rajasthan Gazette Part 4(C) Dated 23.2.67 Page 625 to 628.

188 : Replaced vide Rajasthan Gazette No. 5 dated 11.4.53 Part II, Page 14.

India, as the case may be ; or in an Indian State as defined in clause 2(a) of Article 363 of the Constitution of India.]

Explanation:—Practice as a Vakil of the 2nd grade under the rules of a High Court or an authority exercising the powers of a High Court in any of the Covenanted States shall be deemed to be a practice as a pleader.

¹⁸⁹[(c) Any person, who holds the LL.B or any other higher or equivalent degree as mentioned in Clause (b) whose name is borne on the roll of Advocates of any other High Court in the Union of India and who has practised as such Advocate for a period of not less than two years preceding his application for enrolment provided that such an advocate gives an undertaking in his application to have his name removed from the roll of Advocates of that High Court within 6 months from the date of his admission to the Rajasthan High Court.]

(d) Any person whose name is borne on the roll of Advocates or Vakils of the I grade of any High Court or an authority exercising the powers of a High Court in any of the Covenanted States of Rajasthan and who was entitled to appear, act or plead in such Court or authority:

Provided that if such person not holding the LL.B. or any higher or equivalent degree of any University established by law in the Union of India fails to apply by the end of December, 1951, he shall not be enrolled as an Advocate thereafter.

(e) Any displaced person who had been practising as an advocate immediately before his displacement in any area now included in Pakistan or was entitled to practise in the High Court or any authority exercising the functions of a High Court.

422. Mode of applying for admission as an Advocate - The mode of application for admission as an Advocate shall be by petition, containing the applicant's name, father's name and place of business. The applicant shall state in the petition, whether he holds any salaried appointment, or carries on any trade or business, and that it is his intention to practise permanently in Rajasthan, or whether he has been in any way punished by order made in proceedings for professional misconduct, or was refused admission or was struck off the rolls of any High Court in India or convicted by a Criminal Court for any offence or was adjudged an insolvent and has not been discharged.

Explanation:—The term 'salaried appointment' does not include 'any part time appointment relating to the teaching or other work connected with law.

423. The petition to be addressed to the High Court - The petition shall be addressed to the High Court and shall be presented to the Registrar,

High Court or to the District Judge of the District concerned who shall forward the same to the Registrar.

424. Presentation of certain documents by the applicant - (1) The applicant, if he is not already enrolled as a Legal Practitioner, shall present along with his petition, the documents here-in-after mentioned; provided that the High Court may order the production of any of such documents, even if the applicant is already so enrolled.

- (i) (a) The certificate of the applicant's call to the English or to the Irish Bar, or of his admission to the Faculty of Advocates in Scotland; or
- (b) The certificate of the applicant's having passed the examination for the LL.B. degree or any higher or equivalent degree of any University established by law in India, or the Advocates Examination held by the Bombay Bar Council; or
- (c) the certificate of the applicant's having passed the examination for the LL.B. degree prior to August 15, 1947, held by the University of Dacca, Lahore or Sind, and

- (ii) satisfactory testimonials of good character and conduct

If the original certificates mentioned in clauses 1(a), 1(b) or 1(c) cannot for any sufficient reasons be produced, the applicant shall produce other satisfactory evidence of his call to the Bar, admission to the Faculty of Advocates, or passing the LL.B. Examination, or Advocates Examination held by the Bombay Bar Council, as the case may be.

(2) Every pleader who applies to be admitted as an Advocate under clause (b) of rule 421 shall file with his application a certificate in the prescribed form from the presiding officer of the Court in which he has been practising, and also from the District and Sessions Judge of the District in which he has been practising.

425. Certificate of admission - The petition shall be considered by the Court, and if it is granted, a certificate of admission on the prescribed form, shall be supplied to the applicant on payment of the necessary fees and stamp duty (if any).

426. Fee for enrolment as an advocate - The fee for enrolment as an advocate payable in stamp duty on the certificate of enrolment shall be Rs. 400/-; provided. —

firstly that no fees shall be payable by a person who held a permanent certificate of enrolment as an advocate prior to the introduction of these rules, and

secondly that if a person holds a temporary certificate of enrolment, the amount of any enrolment or renewal fees previously paid by him shall be taken into account in determining the fee chargeable from him for a permanent certificate.

If the total amount of fees previously paid by him comes to Rs. 400/- or more, than no further fee shall be chargeable from him. If the total amount of fees previously paid comes to less than Rs. 400/-, the fee chargeable from him shall be the amount by which the total sum previously paid by him falls short of Rs. 400/-.

427. Refusal to admitting certain cases - If any applicant for admission as an advocate holds any salaried appointment, or carries on any trade or business, the High Court may refuse to admit him or pass such orders on his application, as it thinks proper.

428. Suspension of an Advocate in certain Cases - Any person, who having been admitted as an Advocate shall accept any salaried appointment, or shall enter into any trade or business or shall advance money on interest to any person resident in the district or districts in which he practises or shall acquire any interest in any pending suit, or in any property in respect of which suit is intended to be brought in the State shall give notice thereof to the High Court, which may thereupon suspend such Advocate from practice, or pass such orders on it as it may think fit.

The notice shall be given through the presiding officer of the Court, in which he ordinarily practises.

429. Certificate of enrolment as Advocate - Any Advocate on payment of a fee of Rs. 5 may obtain a certificate in the form prescribed under the signature of the Registrar of the High Court, and the seal of the Court that his name is borne on the roll of Advocates of the High Court.

430. Forms - The forms set forth in Part II of Appendix A to these Rules, with such variations as the circumstances of each case require, shall be used for the respective purposes therein mentioned.

431. Filing of a Vakalatnama or memorandum of appearance -
(1) No advocate shall act for any person in any suit, appeal, or proceeding of the civil nature unless he has filed a Vakalatnama authorising him to do so and signed by such person or by his recognised agent or by some other person duly authorised by or under a power of attorney to make such appointment.

(2) An Advocate, who has been engaged for the purpose of pleading only, may plead on behalf of any party after he has filed in court a memorandum of appearance signed by himself and stating: —

- (1) the names of the parties to the case;
- (2) the name of the party for whom he appears; and
- (3) the name of the person by whom he is authorised to appear.

(3) An Advocate who is engaged by another advocate who has been duly appointed to act in court on behalf of the party can only plead on behalf of the party without either filing a Vakalatnama or a memorandum of appearance.

432. Receiving of monies or Securities for money by an advocate

- No advocate shall receive any monies or securities for money unless he is distinctly authorised by his power-of-attorney to receive the same.

433. Appearance of an Advocate of another High Court before the High Court of Rajasthan

- An advocate who is not on the roll of advocates of the Rajasthan High Court but is enrolled as an advocate in any other High Court in India may appear and plead before the High Court of Rajasthan with the permission of the Judge before whom he wants to appear on a properly stamped application in that behalf; provided that there be with him in such case an advocate on the roll of the High Court of Rajasthan.

434. Execution of Vakalatnama - Every Vakalatnama shall contain in full the name of the person, or where there are more than one, of every person who there-by appoints the advocate to act on his behalf and shall be executed by every such person.

When the person by whom an advocate or pleader is appointed is unable to write his name, his mark upon the Vakalatnama shall be attested by a witness.

435. Execution of a Vakalatnama by a person authorised by the principal

- When such Vakalatnama is not executed by the principal himself, but by some person claiming to appoint or give authority on his behalf, the Advocate shall not be recognised by the Court without proof that such person was duly authorised by the principal to execute such Vakalatnama.

436. Powers under a Vakalatnama - One Vakalatnama shall be sufficient to enable the person empowered to act in all proceedings of a case including execution of a decree.

437. No fresh Vakalatnama in cross appeals and cross objection

- In cross-appeals, an advocate, who has already filed a Vakalatnama for the appellant, shall not be required to file another Vakalatnama for his client as respondent in the cross-appeal.

Similarly Vakalatnama filed by counsel for the appellant in the appeal and by counsel for the respondent in cross-objections will cover both the appeal and the cross-objections.

438. Purchase of any property sold in execution of a decree by an advocate - Except with the special leave of the Court concerned, no Advocate shall, in his own name, or in the name or names of any other person or persons purchase any property or any share or interest in any property sold in execution of a decree or order in any suit, appeal or other proceeding in which he was, in any way, professionally engaged.

439. Distinctive costumes for Advocates - The following distinctive costumes shall be worn by Advocates practising in the High Court:—

(i) By Advocates — a black gown of alpaca or other stuff made after the pattern of a King's Counsel's gown, with bands.

(ii) If an Advocate desires to wear a head-dress of any kind, he should wear a turban.

(iii) All Advocates when appearing in the Court shall wear black coats or 'achkans,'

The operation of the rule regarding the wearing of gown ¹⁹⁰(may) be suspended in the summer season for such period as may be fixed each year by the Chief Justice.

SECTION B

Qualifications and Admissions of Pleadors

440. Grades of Pleadors - Pleadors entitled to practise in the subordinate courts shall be of two grades, namely: -

1. Pleadors, first grade, and
2. Pleadors, second grade.

441. No right to practise unless pleader or Mukhtar enrolled in the District court - No pleader is entitled to appear, plead or act in any District Court or any Court subordinate thereto, unless he is at the time enrolled in the District Court.

Enrollment

190 : Substituted vide Rajasthan Gazette No. 102 dated 10.10.53 Part IV, Page 98.

442. Persons eligible to be pleaders - Any of the following persons may be admitted as a pleader, first grade, if he satisfies the High Court that he possesses an adequate knowledge of the Hindi language and can read and write it with ease and correctness, and that he is a fit and proper person to be admitted as a pleader, first grade:—

(1) a person who has obtained a degree in law from any University established by law in India ¹⁹¹[and is also a graduate in Arts, Science, Commerce or Agriculture of any such University.]

(2) a person, who has obtained a degree in law from the University of Dacca, Lahore or Sind before the 15th day of August, 1947, and has permanently settled in India;

(3) a person, who prior to the 7th April, 1949, was duly enrolled as a legal practitioner in any of the covenanting States of Rajasthan, and who by virtue of such enrolment, was entitled to practise in all the subordinate courts of that State.

443. Enrolment of pleaders of other High Court - (a) A pleader or an Advocate of any other High Court in India, as it is now or was before 15th August, 1947, may be admitted as a pleader first grade by the High Court of Rajasthan provided that:

(i) he is of good character and conduct,

(ii) he can read and write Hindi with ease and correctness,

(iii) the High Court within whose jurisdiction the applicant was a Pleader has reciprocity in this respect with the High Court of Rajasthan, and

(iv) he submits a certificate from the Registrar of such High Court to the effect that he has been permitted to suspend his practise in that Court.

(b) The condition of reciprocity provided in sub-clause (iii) of sub-rule (a) and the certificate required by clause (iv) of the sub-rule are not necessary for pleaders who were practising before the 15th August, 1947, in the area now included in Pakistan.

444. Persons eligible to be admitted as pleaders, second grade - (a) A pleader or Mukhtar of any High Court in any of the Covenanting States of Rajasthan as they existed on 6th April, 1949, and who by virtue of his enrolment as such pleader or Mukhtar, was not entitled to practise in all the subordinate courts of that State but only in certain specified subordinate courts or classes of subordinate courts, may be admitted as a pleader, second grade.

191 : Added vide Rajasthan Gazette No. 49 dated 17.7.54 Part IV- C Page 202.

(b) The Certificate issued to a pleader, second grade, shall specify the Courts or the classes of Courts in which he is entitled to practise.

(c) The Court, or Courts in which a pleader, second grade, shall be entitled to practise shall be the same in which he was entitled to practise before 7th April, 1949:

Provided that if a Court in which he was entitled to practise is abolished, he shall be deemed to be entitled to practise in the successor court which has jurisdiction to try the cases formerly tried by the court which is so abolished.

¹⁹²[Provided further that if the successor Courts are located at more than one place, the pleader may be permitted to practise at any one of such places and may also be permitted to practise in other specified court or courts at the same place equal in rank to the court or courts in which he was previously entitled to practise.]

¹⁹³[**444-A. Enrolment of displaced persons** - A displaced person who is not a Law Graduate, and who was a Pleader or Mukhtar immediately before his displacement in any area now included in Pakistan, may if recommended by the District Judge of the District where he intends to practise be enrolled as a pleader second grade entitled to practise in all or such subordinate courts in the district as may be specified.

In making his recommendations the District Judge will take into consideration (a) the educational qualifications, (b) the Legal attainments, (c) the length of practice, (d) the knowledge of Hindi and (e) the character and antecedents of the applicant.”]

445. Enrolment in the High Court - The mode of applying to be admitted as a High Court Pleader shall be by petition in the prescribed form and bearing the requisite court-fee stamps. The petition shall be presented to the District Judge of the district in which the applicant desires ordinarily to practise. Such District Judge shall see that all particulars are correctly filled in and shall then forward the petition to the High Court.

446. Application for enrolment in District Court - A Pleader to whom a certificate has been issued under section 7, Legal Practitioners Act, 1879, may apply in person by petition accompanied by the certificate, to the District Judge of the district in which the applicant desires to practise.

447. Enrolment in District Court - If the certificate be in order and the District Judge is satisfied that the applicant is not suffering from leprosy or other dangerous malady and is otherwise a proper person to be enrolled, he shall cause his name to be entered in a register to be kept in the following form, and shall cause to be endorsed on his certificate a memorandum certifying that the applicant has been enrolled in the Court.

192 : Added vide Rajasthan Gazette No. 149 dated 6.2.54 Part II P.1640.

193 : Added vide Rajasthan Gazette No. 40 dated 13.6.53 Part II Page 311.

The register shall be maintained in two parts, one for pleaders, first grade, and the other for pleaders, second grade.

FORM OF REGISTER

1	2	3	4	5	6
Name	Father's Name	Address	Value of stamp on Certificate	Date of enrolment	Remarks

448. Enrolment in two districts - If a pleader wishes to practise in more than one district under the High Court, his application for his second or other enrolment must be forwarded to the High Court with the necessary endorsement by the District Judge of such second or other district, that in his opinion he is a suitable person for such further enrolment, provided that no fresh stamp under the second Schedule of Legal Practitioners Act will be required.

449. Training of Pleders before starting practice independently

- Every pleader admitted under clause (1) or (2) of rule 442 shall, unless specially exempted by the High Court after being enrolled and before commencing to practise on his own account in any court subordinate to the High Court, furnish to the High Court a certificate in writing by a 'senior-practitioner', whose name is enrolled in a list drawn up by a District Judge and approved by the High Court or by a Practitioner of the High Court of not less than ten years standing, that he has read with such senior for six months and that he has attended regularly in Court and Chambers with his senior and has worked diligently.

450. Choice of Senior and fee for senior - (a) The pupil may choose the senior with whom he desires to read, provided that no senior shall have more than four pupils at any time unless for some exceptional reason, approved by the High Court, the District Judge authorises him to have more.

(b) If the senior desires to charge a fee, it shall not exceed Rs. 150/- for the aforesaid six months' tuition.

451. Rights of trainee pleaders - During the period of his training under Rule 449, a Pleader shall be entitled to hold the brief of his senior with his permission and to appear and plead for him but shall not be entitled to act.

452. Certificate of training and its submission to High Court -

The certificate of training required by Rule 449 shall be submitted to the High Court through the District Judge who will first endorse it to the effect that he has satisfied himself that the petitioner in question has undergone the six months' training in accordance with the Rules; provided that, where the highest judicial officer at a place is a Civil Judge or a Civil and Additional Sessions Judge or a Munsif, the certificate may bear the necessary endorsement by such an officer and may be submitted to the High Court through the District Judge after being duly countersigned by him.

Where the District Judge feels dis-satisfied with the training undergone, he shall call for an explanation in writing from the practitioner concerned of the points concerning which he is so dis-satisfied, and shall forward the explanation with his opinion thereon.

453. Permission to practise independently - On receipt of the certificate mentioned in the above Rule, the High Court may permit a pleader to practise independently.

454. Change of District of practice and re-enrolment after discontinuing practice - Any pleader who desires to be enrolled in any district other than that in which he was originally enrolled or who applies to be re-enrolled in the same district after an interval during which his name was not on the rolls, shall apply by petition to the Judge of the District Court in which he seeks enrolment or re-enrolment annexing thereto his last certificate and a satisfactory testimonial of character from the Judge of the district in which he last practised, showing that nothing is known against him either professionally or personally so as to debar him from being enrolled or re-enrolled as a pleader. Where sufficient cause is shown as to why the applicant cannot furnish the certificate and testimonial aforesaid, the Judge may accept any other evidence in proof of his having been previously enrolled and of his having a good character. If the application be in order, and the District Judge is satisfied that the applicant is not suffering from leprosy or other dangerous malady, and is otherwise a proper person to be enrolled or re-enrolled, he may be enrolled or re-enrolled accordingly; and upon every enrolment under this Rule, the District Judge shall notify the fact of such enrolment to the Registrar of the High Court.

RENEWAL

455. Petition for renewal of certificate to practise - Every application for renewal of a certificate shall be made on or before 15th December by petition, stamped under clause (b), article 1, Schedule II of the Court Fees Act, 1879, of the Central Legislature as adapted to Rajasthan addressed to the Judge of the District Court in which the applicant is enrolled and ordinarily practises. The petition shall be accompanied by the expiring certificate and stamped paper of the value required for the renewed certificate, and shall be presented by the applicant in person, or if the District Judge so permits, by a legal practitioner practising in the District Court and duly authorised in that behalf. Where an applicant practises in an outlying court, he may, if the District Judge so permits,

present his petition in that court to be forwarded to the District Judge for orders.

The necessary postal charges for forwarding the petition by registered post as also for the transmission of the renewed certificate by registered post shall be paid by the applicant:

Provided that if a pleader is enrolled in more than one district under rule 448, he shall deposit the stamps of the Legal Practitioner Act in the district in which he was originally enrolled.

¹⁹⁴Provided further that in the case of a pleader who has been previously entered permanently as a Vakil, Pleader or Mukhtar on the roll of a former High Court or Chief Court in any covenanting State, the High Court may on application issue to such pleader a certificate authorising him to practise permanently in the Courts and in the offices specified therein with effect from the 1st January, 1954 or any subsequent date and a certificate so issued shall not be required to be renewed every year.

456. Order on application for renewal - Unless it appears to the District Judge that the applicant is unfit by reason of leprosy or other dangerous malady, or is otherwise an improper person to whom to grant a renewal of the certificate, a renewed certificate shall be granted to him and signed by the District Judge, and be delivered to the applicant if he attends in person, or to the legal practitioner presenting the petition under Rule 455, or through the Court forwarding his petition under Rule 455. On the renewed certificates shall be endorsed the memorandum of enrolment recorded on the expiring certificate, and the endorsements shall be authenticated by the District Judge. No certificate shall be renewed by any District Judge unless he is satisfied "that the applicant at the time of the application is ordinarily practising in a Civil, Criminal or Revenue Court within the local limits of his jurisdiction.

If for any reason it appears to the District Judge that the applicant is an improper person to whom to grant a renewal of the certificate, he shall report the matter to the High Court for orders.

457. High Court's power of renewal when applied for after 15th December - Except under a special order of the High Court passed on an application to be made through the District Judge, no certificate shall be renewed to any pleader who shall not have applied on or before 15th December in its current year for a renewal of his certificate.

458. Forms of original and renewed certificates - The certificate of practice and renewed certificate shall be in the forms given in Part II of the Schedule to the Rules and on stamp paper of the prescribed value.

194 : Added vide Rajasthan Gazette No.119 dated 28.11.53 Part II, P.1200.

459. Return of certificates and renewals allowed - Each District Judge shall submit to the High Court in January of each year a return in the form below of the certificates renewed by his Court for that year; and shall at the same time submit to the High Court a list of such pleaders as have not applied for a renewal of their certificates or to whom a renewal has been refused:

No. in High Court's Register & year of admission	Name and degree, if any	Father's name	Place where practising	Value of stamp on certificate	Date of last renewal	Remarks
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At the time when the District Judge submits such returns to the High Court, he shall cause to be forwarded a copy of each such return to each District Magistrate within his Judgeship.

A list containing the names of all pleaders whose certificates have not been renewed shall in January of each year be posted in the court house of the District Judge with an intimation that such persons are liable to penalties under section 32 of the Legal Practitioners Act, 1879 (Act No. XVIII of 1879), if found practising without having renewed their certificates.

The District in which a pleader was originally enrolled should always be stated in the column of remarks when he obtains enrolment in another district and in preparing this return, the names shall be arranged in the order in which they stand in the High Court's Register.

Disabilities of Lawyers

460. Service, Trade business not allowed to Pleaders - If any applicant for admission as a pleader holds any salaried appointment or carries on any trade or other business, the High Court may refuse to admit him, or pass such orders on his application as it thinks proper.

If any person who having been admitted as a pleader accepts any salaried appointment or enters into any trade or other business, he shall give notice thereof to the High Court, which may thereupon suspend such pleader from practice, or pass such orders as the said Court may think fit. He shall give the notice through the District Judge in whose Court he is enrolled.

Ordinarily no pleader can be permitted to take an active part in any trade or other business and at the same time to carry on a legal practice.

Explanation - The term 'salaried appointment' does not include any part-time appointment relating to the teaching or other work connected with law.

461. Place of practice - A pleader is authorised to practise only after enrolment, and then only in a court or office held within the territorial limits of the jurisdiction of the Court of the District Judge in which he is enrolled.

462. Authority for withdrawing client's money - Pleaders shall not receive refunds or repayments of court-fees, moneys or securities for money except when they be by their Vakalatnamas or mukhtarnamas distinctly authorised to receive the same.

N. B. Government pleaders who do not file any Vakalatnama may, however, receive refunds or repayments when the application for refund or repayments has been signed by the Collector ((or any other Officer entrusted with the conduct of a suit) and the Government Pleader.

¹⁹⁵**462-A. Accounts of Receipts & Disbursement of Clients money** - It shall be the duty of every pleader to keep regular accounts of all moneys received and disbursed by him in connection with each suit, appeal or proceeding in which he is engaged as pleader. The failure to keep such accounts will be treated as a "reasonable cause" for suspension of certificate within the meaning of section 13 (f) of the Legal Practitioners Act, 1879.

463. Conditions on bidding at auction sales - No pleader shall, at a sale in execution of a decree in a suit in which he has been professionally engaged bid for or purchase, whether in his own or in any other name, for his own benefit or for the benefit of any other person, any property sold in execution of such decree.

464. Cancellation of the existing Rules and certificates thereunder - All existing rules relating to matters which are provided for in these Rules (in Section B of Chapter XXIV) are hereby cancelled, and certificates issued under the Rules so cancelled shall be deemed to have been issued under these Rules and shall remain effective till the end of the current year:

Provided that at the time of renewal of the certificates all pleaders will be classified as pleaders of the first or second grade according to these Rules on a reference to the High Court.

465. Renewal fee on permanent certificates - If a certificate under the Rules cancelled as aforesaid was issued as a permanent certificate, the amount of fee paid for the permanent certificate shall be credited towards such renewal fee until the expiry of the period for which such amount should have sufficed if renewal fee at the prescribed rate were paid each year, from the date of issue of the permanent certificate:

195 : Added vide Rajasthan Gazette No. 109 dated 13.11.54, Part IV-C, P.458.

Provided that in case the amount paid for a permanent certificate is exhausted by calculation as aforesaid on any date prior to 1st January, 1952, the renewal fee will become payable every year beginning from 1st January, 1952.

CHAPTER XXV

Constitution and Procedure of Bar Council

Preliminary

466. Rules under section 6 of the Bar Councils Act - The Rules contained in this chapter are made by the High Court under sub-section (1) of Section 6 of the Indian Bar Councils Act, 1926.

467. Definitions - In this chapter:

- (a) 'High Court' means the High Court of Judicature for Rajasthan at Jodhpur.
- (b) 'Registrar' means the Registrar of the High Court.
- (c) 'District Judge' means a Judge presiding over a district court in the state of Rajasthan.

468. Classification of advocate.- (i) The Registrar shall classify the advocates entered in the roll prepared under section 8, sub-section (2) of the Indian Bar Councils Act as follows:—

- (a) those who have, for not less than ten years, been entitled as of right to practise in the High Court;
- (b) those who, other than those mentioned in clause (a), are entitled to practise in the High Court.

For the purpose of clause (a) of this sub-rule, the period during which any legal practitioner was entitled as of right to practise in the High Court of a former State integrated in Rajasthan shall be included in the period during which he was entitled as of right to practise in the High Court.

(ii) Each advocate on the list shall be assigned a number and shall have entered against his name, his permanent place of business.

(iii) The list so prepared shall be sent to the Presidents of the Bar Associations at Jodhpur and Jaipur. It shall also be sent to every District Judge for communication to the legal practitioners in his jurisdiction.

(iv) Any legal practitioner entitled to have his name entered in the list and whose name is not so entered or whose name is entered in the wrong division of the list may within such time as may be fixed by the High Court for this purpose, apply to him for correction of the list, and the Registrar on being

satisfied that the name has been wrongly omitted or entered, may cause a proper entry to be made.

(v) The corrections made by the Registrar under the provisions of sub-rule (iv) shall be notified in the manner prescribed by sub-rule (iii).

469. Calling of Nominations - (a) After the corrections in the list have been notified the Registrar shall notify the period fixed for the receipt of letters of nomination.

(b) The notification under sub-rule (a) shall be published in the Rajasthan Gazette on a date not less than ten days before the commencement of the period. It shall also be published in the manner prescribed by Rule 468 (iii).

(c) The period during which nominations shall be received shall be of a duration of not less than ten days (including any intervening holidays).

470. The mode of filing nominations - (a) Every candidate for election as a member of the Bar Council shall be nominated by five voters by letter addressed to the Registrar, and signed by each of such voters, the signatures being attested by the presiding officer of a Civil Court under his seal.

(b) The letter shall bear the assent of the candidate nominated for election and such assent shall also be attested in the manner indicated in clause (a)

(c) The letter shall also indicate the number assigned in the electoral list and the place of business, of each of the proposers, and of the candidate.

471. Scrutiny of nominations by the Registrar - (a) The nomination letter shall be delivered to the Registrar by hand or by post within the period notified under Rule 469 (a).

(b) The Registrar may submit to the Administrative Judge any nomination as to the validity of which he may have any doubt and subject to the provisions of rule 479, the decision of the Administrative Judge shall be final.

(c) In the event of a proposal being held to be invalid, the fact shall be notified forthwith to the candidate by the Registrar and the candidate may thereupon submit another proposal within the period fixed under rule 469 (a), but in default of the candidate being so notified, he shall not be entitled to submit another proposal after the time prescribed by Rule 469 (a).

472. List of valid nominations - (a) As soon as may be, after the expiry of the period fixed for the receipt of nominations, a list of nominations admitted as valid shall be posted on the notice board of the High Court at Jodhpur and

Jaipur and copies of the list shall also be sent to the President of the Bar Associations at Jodhpur and Jaipur.

(b) The list of candidates shall be divided into two parts, the first containing the names of candidates to whom clause (a) of Rule 468 (i) applies, and the second part containing the names of candidates to whom clause (b) of Rule 468 (i) applies.

473. Sending of voting papers to electors - After the list of valid nominations has been published, the Registrar shall send to each elector by post, a copy of the voting paper, containing the list of valid nominations, and stating the time and date on or before which it must be returned in a closed cover either in person or through registered post. The date thus specified shall not be less than 14 days from the date of posting the voting paper.

474. Marking of voting papers - (a) The elector shall put a cross mark (X) against the name (or names) of the person (or persons) for whom he votes and sign the voting paper.

(b) Every voter may vote for ten candidates, but he shall not be entitled to vote for more than five candidates out of those included in the second part of the list mentioned in rule 472 (b).

(c) No voter may give more than one vote to any one candidate.

475. Custody of voting papers - The Registrar, or in his absence, the Deputy Registrar shall provide for the custody of voting papers, which shall be kept in closed covers unopened until the time and date fixed for the counting and scrutiny of such voting papers. Due notice of such time and date (a) shall be given by post to all candidates, (b) shall be posted on the Notice Board of the High Court at Jodhpur and at Jaipur and (c) shall also be sent to the President of the Bar Association at Jodhpur and at Jaipur.

476. Right of certain persons to be present during counting and scrutiny of voting papers - The candidates, or their duly authorised representatives and the Presidents of the Bar Associations or their duly authorised representatives shall have a right to be present during the counting and scrutiny of voting papers.

477. Scrutiny and counting of voting papers - The Registrar, or in his absence, the Deputy Registrar, shall open the covers containing the voting papers and scrutinise them in the presence of such of the persons mentioned in rule 476, as may be present.

The votes received by such candidate shall be recorded, and a return showing the number of votes obtained by each candidate, and the number of voting papers rejected as invalid shall be prepared.

478. Obtaining of the highest number of votes - The five advocates mentioned in section 4, sub-section (2) of the Indian Bar Councils Act, shall be those five who answering that description have obtained the highest number of votes. The remaining five advocates to be declared elected shall be those who have obtained the highest number of votes excluding from consideration the five above mentioned.

479. Constitution of a Tribunal to determine validity of the election of a member - If any question should arise as to the validity of election of a member, the High Court shall constitute Tribunal to determine the matter.

480. Publication of the names of the elected members - The Registrar shall publish in the local official gazette, as soon as may be after the election, the names of the elected members of the Bar Council and shall communicate the fact of such election to each such member.

481. Term of a member of the Bar Council - A nominated or elected member of the Bar Council shall hold office for three years from the date of the first meeting of the Council after his nomination or election, provided that a member nominated or elected to fill a casual vacancy shall for the purpose of this Rule, be deemed to have been nominated or elected on the date when the person whose place he takes was nominated or elected.

482. Death, resignation etc., of a member of the Bar Council during currency of his term - When a member of the Bar Council dies, resigns or becomes incapacitated before the expiration of the three years mentioned in Rule 481;

(a) the High Court shall nominate another person to be a member, if the member dying, resigning or becoming incapacitated was a member nominated under the provisions of section 4, sub-section (1) (b), of the Indian Bar Councils Act; and

(b) in the case of an elected member, the Bar Council shall elect another member, but so that not less than five of the elected members at any time are advocates whose names appear in part (a) of the list.

483. Secretary of the Bar Council - The Secretary of the Bar Council shall be chosen by the members at the first meeting, and until so chosen, the Registrar shall carry out the duties, if any.

484. Two Meetings during year - The Bar Council shall hold not less than two meetings every year.

485. Secretary to convene meetings - The Secretary shall convene all meetings of the Bar Council.

486. Quorum - Seven members shall constitute a quorum for a meeting of the Bar Council.

487. Notice of the meeting to specify object and agenda of the meeting - The Secretary shall in the notice convening each meeting specify the object thereof and the matter to be discussed therein.

488. Decision of difference of opinion by voting - In case of difference of opinion amongst the members present, the matter on which such difference has arisen shall be decided by votes of the members present.

489. Casting of vote - Where such votes are equally divided, the Chairman, or the member presiding at the meeting, shall have a casting vote.

490. No quorum necessary at an adjourned meeting - If at a meeting less than seven members are present, it shall be adjourned for not less than fourteen days, and at the adjourned meeting no quorum shall be necessary.

491. Absence in three consecutive meetings to determine membership - Membership of the Bar Council shall automatically determine in the case of any member absent for three consecutive meetings.

492. Election of Chairman and Vice Chairman - The Bar Council shall, at its first meeting, proceed to elect a Chairman and a Vice-Chairman by ballot.

493. Who to preside at meeting - The Chairman shall preside at each meeting, and in his absence, the Vice-Chairman shall preside, and in the absence of both, the members present may elect one of themselves to preside at a meeting.

494. Term of office of Chairman and Vice Chairman - The term of office of the Chairman and Vice Chairman shall be the same as their terms of office as members.

CHAPTER XXVI

Advocates' Clerks

495. Registration - No Advocate's clerk shall be allowed to do any work in the High Court unless he has been registered under these Rules. Not more than two clerks shall be registered at one time for each Advocate.

496. Qualifications - No person shall be registered unless he—

- (a) has passed the Middle Examination or an examination considered to be equivalent there-to;
- (b) has worked for one year in the office of an Advocate under a registered clerk;
- (c) has obtained: —
 - (i) a certificate from the registered clerk under whom he has worked countersigned by the Advocate concerned that he has a working knowledge of the Rules and practice of the Court and can maintain accounts; and
 - (ii) a certificate of honesty and good character from the Advocate in whose office he has worked:

Provided that a person who was registered as an Advocate's Clerk before the commencement of these Rules and whose name was not removed by order of the Registrar may, notwithstanding the fact that he does not possess the qualifications mentioned in clause (a), (b) and (c) (i) above, be registered as an Advocate's clerk.

¹⁹⁶Provided further that a person who, though not formally registered as an Advocate's clerk before the commencement of these Rules, was continuously working as such from 29th August, 1949 to 30th September, 1952, may notwithstanding the fact that he does not possess the qualifications mentioned in clause (a), (b) and (c) (i) above, be registered as an Advocate's clerk, on his producing satisfactory evidence of his having worked as an Advocate's clerk continuously from 29th August, 1949 to 30th September, 1952.

497. Disqualifications - A person suffering from any contagious or infectious disease or who has been convicted of any offence involving moral turpitude or is an undischarged insolvent or has ever been declared a tout shall not be registered as an Advocate's clerk.

498. Application for registration - An application for the registration of a clerk shall be made by an Advocate by letter addressed to the Deputy Registrar in the following form, namely -

I beg to request that (name) _____ son of

_____, aged _____ resident
of _____
_____ may be registered as my Clerk.

I have made due enquiries with regard to the character and qualification of the candidate and certify that in my opinion he is a fit and proper person to be registered as an Advocate's clerk under the Rules contained in Chapter XXVI of Rules of Court, 1952.

499. Acts which a registered Clerk may perform - A registered clerk shall not make any notion or advance an argument in Court. He may act in matters of a routine nature which do not require the personal attendance of the Advocate and may do the following acts, namely—

- (1) Receiving notice on behalf of his master;
- (2) taking back an appeal or application filed before the Registrar, if found defective or returned by him for presentation in Court;
- (3) presenting to the Registrar or the Deputy Registrar an application signed by his master for -
 - (a) copy of a document;
 - (b) inspection of a record;
 - (c) return of a document;
 - (d) refund of a surplus balance;
 - (e) translation and printing; or
 - (f) transliteration or translation of a document or the verification of such transliteration or translation;
- (4) taking notes from the deficiency report of the Stamp Reporter and filing the necessary stamps;
- (5) depositing money and paying court-fees;
- (6) receiving paper-book, certified copies; etc.
- (7) filing Vakalatnama or retainer's slip or certificate of fee; or
- (8) identifying persons personally known to him inspecting record or swearing affidavit.

500. Cancellation of registration - The Registrar may cancel the registration of any Clerk-

- (a) if he has been convicted of any criminal offence involving moral turpitude or implying a defect of character; or
- (b) if he is guilty of fraudulent or grossly improper conduct in the discharge of his professional duties; or
- (c) if he has been declared a tout under the provisions of the Legal practitioners Act, 1879; or
- (d) if he has contracted any contagious or infectious disease; or
- (e) for any other sufficient cause:

Provided that where the registration has been cancelled under clause (d), the Registrar may register his name again on being satisfied that he has been cured of his disease.

The order passed by the Registrar under this Rule shall be final.

PART VII

Special Provisions

CHAPTER XXVII

Income-Tax Rules

501. Title of application under Sec. 66(2) or (3) of the Indian Income- Tax Act, 1922 - An application under sub-section (2) or (3) of section 66 of the Indian Income Tax Act, 1922 (hereinafter referred to in this Chapter as the Act) shall be entitled:

In the High Court of Judicature for Rajasthan at Jodhpur Income-Tax Case No.....of.....

Under Sub-section (2)/ Sub-section (3) of section 66 of the Indian Income-Tax Act, 1922.

.....Applicant.

Versus

.....Opposite Party.

502. Array of parties - In an application presented on behalf of the assessee the opposite party shall be the Commissioner of Income-tax and in an application presented on behalf of the Commissioner of Income-Tax, the assessee.

503. (1) Application under section 66 (2) of the Indian Income-Tax Act, 1922 - An application under sub-section (2) of section 66 of the Act shall state in precise language the question of law upon which the Appellate Tribunal is required to make a reference to the Court and contain a concise statement of the material facts out of which it arises. The application shall be accompanied by copies of (a) the order of the Appellate Tribunal refusing to state the case, (b) the order of the Appellate Tribunal under sub-section (4) of section 33 of the Act, (c) the order of the Appellate Assistant Commissioner and (d) the order of the Income- Tax Officer.

(2) Application under section 66 (3) of the Act - An application under sub-section (3) of section 66 of the Act shall be accompanied by a copy of the order of the Appellate Tribunal rejecting the application made under sub-section

(1) on the ground that it is time-barred.

(3) Affidavit - An application under sub-Rule (1) or (2) shall, where the circumstances so require, be also accompanied by an affidavit.

504. Presentation of application - The application shall be accompanied by two copies thereof as well as the affidavit, if any, filed under Rule 503 (3) and shall be presented before the Registrar. The application shall be numbered and registered as a Miscellaneous case.

505. Court's power to dispense with any copy or to allow time for filing it - The Registrar may for sufficient cause shown either dispense with any copy or copies mentioned in Rule 503 or allow any such copy or copies to be filed within such further time as he may deem fit to allow and may extend such time.

506. Application to be heard by a Division Bench specially constituted - Unless otherwise ordered by the Chief Justice, the Registrar shall direct that the application be laid before a Division Bench. The Registrar shall at the same time, if so directed by the Chief Justice, cause notice of the application to be served upon the opposite party calling upon it to appear and show cause why the application should not be granted.

507. Issue of notice - The Bench may, in a case in which notice has not already been issued under Rule 506 after giving an opportunity to the applicant to be heard either reject the application or direct that notice thereof be served upon the opposite party calling upon it to appear and show cause why the application should not be granted.

508. Copies of application and affidavit to accompany notice - The notice under Rule 506 or 507 shall be accompanied by a copy of the application as well as the affidavit, if any, filed under Rule 503 (3).

509. Reply - Within thirty days of the service of notice under Rule 506 or 507 the opposite party may submit a reply to the application accompanied, if necessary, by an affidavit. The reply shall be accompanied by two copies thereof as well as the affidavit, if any. Copies of the reply and the affidavit, if any, shall be served upon the applicant by the Registrar.

510. Advocates to accept service of notice - Advocates for the parties shall be bound to accept service on behalf of the party represented by them of any notice issued by the Court or the Appellate Tribunal, as the case may be, until the case has been finally disposed of.

Any change of Advocates appearing for a party shall immediately be notified by it to the Court, the Appellate Tribunal and the opposite party.

511. Orders on the application - On the date fixed for the hearing of the application, the Court after hearing the parties, if they appear, either pass an order dismissing it or, in the case of an application under sub-section (2) of section 66 of the Act, require the Appellate Tribunal to state the case and to refer it to the Court and, in the case of an application under sub-section (3), require the Appellate Tribunal to treat the application presented before it as made within the time allowed under sub-section (1).

512. Form of reference by the Appellate Tribunal - The statement of a case referred to the Court by the Appellate Tribunal shall, so far as may be, be divided into paragraphs numbered consecutively and shall indicate the precise question of law arising in the case and concisely state such facts as may be necessary to enable the Court to decide it. It shall also contain references to all such documents as may be necessary to enable the Court to decide the question and shall be accompanied by copies of such documents or relevant extracts therefrom.

The statement may include more than one question of law arising in a case.

513. Notice of reference by the Appellate Tribunal - On receipt of the statement of a case referred to the Court, by the Appellate Tribunal under sub-section (1) or (2) of section 66 of the Act, notice thereof shall be given to the parties and the Registrar shall call upon the party at whose instance the reference has been made to prepare or cause to be prepared a paper-book of the case within such time as the Registrar may allow. The Registrar may for sufficient cause shown extend such time.

514. Paper-book - (1) The paper-book shall consist of a fly sheet and a general index and contain copies of the following papers, namely—

(i) Application and the affidavit accompanying it, if any.

(ii) Reply to the application and the affidavit accompanying it, if any.

(iii) Any orders passed by the Court under sub-section (2), (3) or (4) of section 66 of the Act.

(iv) Statement of the case and copies of documents or extract therefrom, if any, forming part of the case.

(v) Any objection by a party to the statement of the case.

(vi) Orders of the Appellate Tribunal under sub-section (4) of section 33 of the Act.

(vii) Order of the Appellate Assistant Commissioner.

(viii) Order of the Income-tax Officer.

(2) Where the case is referred back to the Appellate Tribunal under sub-section (4) of section 66 of the Act, a copy of the statement of the case as added to or altered by the said Tribunal shall also be included in the paper-book.

(3) If any party desires that a copy of any other document be included in the Paper-book on the ground that it is necessary for the determination of the question of law referred to the Court, it shall make an application in writing to the Registrar fully explaining the relevancy of such document. The Registrar shall give notice of the application to the opposite party and may after hearing any objection that may be filed by such party, either reject the application or direct that a copy of such document be included in the paper-book.

(4) The paper-book shall, unless otherwise ordered, be a type-written one and such number of copies thereof shall be prepared as the Registrar may direct.

515. Cost of preparing paper-book - The Registrar shall determine the cost of preparing the paper-book and such cost shall be cost in the cause.

516. Preparation of paper-book under the direction and supervision of the Registrar - Where the Registrar directs that the paper book be prepared under his direction or supervision, the preparation of such paper-book shall not be undertaken unless the party concerned furnishes evidence to the Registrar of his having deposited the cost of preparing it as determined by the Registrar with the Cashier.

517. Hearing of case after preparation of paper-book - When the paper- book has been prepared, the Registrar shall cause copies thereof to be supplied to the parties and thereafter the case shall be listed for hearing before the Bench concerned.

518. Copies of orders passed by the Court to be sent to the Appellate Tribunal - Copies of any orders passed by the Court under sub-section (2), (3) or (4) or any judgment delivered by it under sub-section (5) of section 66 of the Act shall be sent forthwith to the Registrar of the Appellate Tribunal under the seal of the Court and the signature of the Registrar. ¹⁹⁷(deleted)

519. Costs - Costs taxable as Advocates' fees shall be determined by the Court having regard to the provisions of Rule 276 of Chapter XVI of Part II of these Rules.

520. Application of Rules to similar proceedings under other Acts - The Rules contained in this Chapter shall so far as may be and with necessary modifications and adaptation also apply to proceedings of a similar nature under any other Act:

Provided that where a reference may under the law be made by the Court or authority making the reference without an application by a party, the paper-book shall be prepared under the direction and supervision of the Registrar and Rules 515 and 516 shall not apply.

CHAPTER XXVIII

Company Rules

SECTION A

GENERAL

521. Short title and commencement - The Rules contained in this Chapter may be cited as the Company Rules.

522. Definitions - In this Chapter, unless the context or subject matter otherwise requires,—

- (i) 'The Act' means the Indian Companies Act, 1913;
- (ii) 'Company' means a company in respect of which proceedings have been instituted under the Act;
- (iii) 'Court' means the Court having jurisdiction under the Act;
- (iv) 'Creditor' includes a corporation and a firm of creditors in partnership;

(v) 'Judge' means in the High Court, the Judge for the time being exercising the Original Jurisdiction of the Court in Company matters and in a District Court, the Judge of such Court;

(vi) 'Registrar' for the purposes of Rule 690 means the Registrar of the High Court or one of the officers of the Court mentioned in section 196 (9) of the Act, and in a District Court, the District Judge;

(vii) 'Sealed' means sealed with the seal of the Court.

523. General headings and forms - (1) The following shall be used as general headings in all cases under the Act or the Rules contained in this Chapter:—

I. For proceedings before the Court:

In the High Court of Judicature for

Rajasthan. (or in the District Court of)

In the matter of the Indian Companies Act, 1913, and of Ltd.

II. For all advertisements, notices and other proceedings not before the Court:

In the matter of the Indian Companies Act, 1913, and of Ltd.

III. Where required, the words 'and reduced' shall be added to the description of the company.

(2) The forms set forth in Part III of Appendix A to these Rules shall, with such variations as the circumstances of each case may require, be used for the respective purposes mentioned in the Rules and the Schedule.

(3) (i) The first proceeding in every matter under the Act shall have a distinctive number assigned to it, and shall be designated as "Company Case No..... of.....19.....". All proceedings in any matter subsequent to the first proceeding shall bear the same number as the first proceeding.

(ii) Any application arising out of a proceeding under the Act shall have a distinct number assigned to it and shall be designated as

"Application No.....of 19....."

arising out of

"Company Case No.....of 19....."

524. General power of the Judge - Notwithstanding anything contained in this chapter, the Judge before whom proceedings are taken may enlarge or abridge the time for doing any act or taking any proceedings under this chapter.

525. Presentation etc. of petitions etc - (1) In the High Court all petitions shall be presented and applications made, in the first instance, to the

Registrar. Proceedings shall be taken under the direction of the Judge, unless the Registrar is empowered to dispose, of the matter, in which case they shall be taken under the direction of the Registrar.

(2) In a District Court having jurisdiction under the Act, all petitions shall be presented, applications made to, and proceedings taken under the direction of, the Judge of the Court, and the powers conferred upon the Registrar under this chapter shall be exercised by the Judge of the Court.

526. Affidavit verifying petition - Every petition presented to the Court under any of the following sections of the Act, namely, sections 12, 55, 56, 66A, 105 A, 120, 153, 166, 221, 247, 267 or 281(2), shall be verified by an affidavit made by the petitioner, or one of the petitioners, if more than one or, in case the petition is presented by a corporation, by some director, secretary or other principal officer thereof. Such affidavit shall be sufficient *prima facie* evidence of the statements in the petition:

Provided that the Judge may, for sufficient cause shown, grant leave to any other person duly authorised by the petitioner to make and file the affidavit.

527. Enclosures to petitions - Unless dispensed with by the Judge, every petition mentioned in column 1 of the schedule to this chapter shall be accompanied by the documents set opposite thereto in column 2 of the said Schedule.

528. Form of advertisement - Where an advertisement is required for any purpose, it shall, unless otherwise prescribed by the Rules in this Chapter or directed by the Judge, be inserted once in the official Gazette, and once in two daily newspapers, circulating in the locality where the company has its registered office or a principal place of business or assets and liabilities, as the case may be.

SECTION B

REDUCTION OF CAPITAL

529. Mode of application - An application under section 56 of the Act for an order confirming the reduction of the share capital of a company shall be made by petition. Such petition shall be in the prescribed form.

530. Application to dispense with "and reduced" - An application under section 57 of the Act for an order dispensing with the addition of the words "and reduced" may be made *ex parte* at or after the presentation of a petition; provided that the Judge may direct notice to be given of such application or adjourn the consideration thereof as he thinks fit.

531. Procedure in respect of objections by disqualified creditors

- Where the creditors of a company are not entitled under the provisions of section 58 of the Act to object to the proposed reduction, it shall not be necessary to obtain the certificate mentioned in Rule 544 hereafter; but on the presentation of the petition, the Judge shall fix a day for the hearing thereof and shall give directions as to the advertisements to be published of the presentation of the petition, so that the first or only insertion of such notice shall be made not less than fourteen days before the date fixed for the hearing. Such notice shall be given in the prescribed form.

532. Procedure where creditors are entitled to object - Where the creditors are entitled to object to the proposed reduction, the petition shall not come on for hearing until after the expiration of twenty-one clear days from the filing of the certificate mentioned in Rule 544 hereafter.

533. Proceedings after petition presented - When any such petition as is mentioned in Rule 532 above has been presented, application may be made *ex parte* for directions as to the proceedings to be taken for settling the list of creditors entitled to object to the proposed reduction and the Judge may thereupon fix the date with reference to which the list of such creditors is to be made out, pursuant to section 58, sub-section (2) of the Act; and may, either at the same time or afterwards, as he may think fit, give such directions as are mentioned in the two following Rules. The order upon such application shall be in the prescribed form.

534. Advertisement of petition - Notice of the presentation of the petition shall be published at such times and in such newspapers as the judge may direct, so that the first insertion of such notice be made not less than one calendar month before the date fixed under Rule 533. Such notice shall be in the prescribed form.

535. Affidavit as to Creditor - The company shall, within such time as the Judge may direct, file in Court an affidavit made by some officer or officers of the company competent to make the same, verifying a list containing the names and addresses of the creditors of the company at the date fixed under Rule 533, and the nature and amount of the debts due to them, respectively, or in case of any debt payable on a contingency or not ascertained or any claim admissible to proof in a winding up of the company, the value, so far as can be justly estimated, of such debt or claim.

536. Form of affidavit - The person making such affidavit shall state therein on his behalf that such list is correct, and that there was not at the date so fixed as aforesaid any debt or claim which, if that date was the commencement of the winding-up of the company, would be admissible in proof against the company except the debts set forth in such list, and shall state his means of

knowledge of the matters deposed to in such affidavit. Such affidavit shall be in the prescribed form.

537. Inspection of list of creditors - Copies of such list, containing the names and addresses of the creditors, and the total amount due to them, but omitting the amounts due to them respectively, or (as the Judge may think fit) complete copies of such list, shall be kept at the registered office of the company and at the offices of their advocates and agents, if any, and any person desirous of inspecting the same may, at any time during the ordinary hours of business, inspect and take extracts from the same on payment of the sum of one rupee.

538. Notice to creditors - The company shall, within seven days after the filing of such affidavit, or such further time as the Judge may allow, send to each creditor whose name is entered in the said list a notice stating the amount of the proposed reduction of capital, and the amount of the debt for which such creditor is entered in the said list, and the time within which, if he claims to be a creditor for a larger amount, he must send in his name and address, and the particulars of his debt or claim, and the name and address of his advocate, if any, to the company or its advocate, if any; and such notice shall be sent by post in a registered cover addressed to each creditor, at his last known address or place of abode, and shall be in the prescribed form:

Provided that if any of the creditors of the company are residing out of India, or if the names of any of the creditors are not known to the company, or if for any special reason the Judge thinks it expedient, the Judge may direct notice to be given to any creditor or creditors by advertisement or otherwise as he may deem fit.

539. Advertisement as to list of creditors - Notice of the list of creditors shall, after the filing of the affidavit mentioned in Rules 535 and 536, be published at such times and in such newspapers as the Judge may direct. Every such notice shall state the amount of the proposed reduction of capital, and the places where the aforesaid list of creditors may be inspected and the time within which creditors of the company whose names are not entered on the said list and who are desirous of being entered therein, must send in their names and addresses, and the particulars of their debts or claims, and the names and addresses of their advocates, if any, to the company or its advocate, if any. Such notice shall be in the prescribed form.

540. Creditor for larger amount to notify company - A creditor entered in the said list who claims to be a creditor for a larger amount than that stated therein shall send his name and address and particulars of his debt or claim, and the name and address of his advocate, if any, to the advocate of the company or to the company, within the time stated in such notice, being not more than fourteen days from the date of the notice or such further time as the Judge may allow.

541. Affidavit as to result of Rules 538 and 539 - The company shall, within such time as the Judge may direct, file in Court an affidavit made by the persons to whom the particulars of debts or claims are, by the notices mentioned in Rules 538 and 539 above, required to be presented, stating the result of each of the aforementioned notices, respectively and verifying a list containing the names and addresses of the persons, if any, who have sent in the particulars of their debts or claims in pursuance of such notices and the amounts of such debts or claims, and a competent officer of the company shall join in such affidavit proving the despatch and publication of such notices, and shall in such list distinguish which of such debts and claims, if any, are wholly or as to any and what part thereof, admitted by the company, and which, if any of such debts and claims are wholly, or as to any and what part thereof, disputed by the company. Such affidavit shall be in the prescribed form.

542. Proceedings where claim not admitted - If any debt or claim, the particulars of which are so sent in, shall not be admitted by the company at its full amount, then in every such case, unless the company is willing to set apart and appropriate in such manner as the Judge shall direct, the full amount of such debt or claim, the company shall send to the creditor a notice that he is required to come and prove such debt or claim, or such part thereof as is not admitted the company, by a day to be therein named being not less than fourteen clear days after such notice, and being the day appointed by the Judge for adjudicating upon such debts and claims. Such notice shall be sent in the manner mentioned in Rule 538 above and shall be in the prescribed form. The affidavit of the creditor in proof of his debt or claim shall be in the prescribed form.

543. Cost of proof - Such creditors as prove their debts or claims in pursuance of the notice issued under Rule 542 shall be allowed their costs of proof against the company and such costs shall be added to their debts. The said creditors may be answerable for costs in the event of their failing to prove their debts or claims.

544. Certificate as to creditors - The result of the settlement of the list of creditors shall be stated in a certificate which shall be prepared by the advocate of the company and signed by the Judge. Such certificate shall state what debts or claims, if any, have been disallowed, the debts or claims, if any, the amount of which allowed, the debt or claims, if any, the amount of which has been fixed by enquiry under section 59 of the Act and these Rules and the debts and claims, if any, which are admitted by the company and shall show which of the creditors have consented to the proposed reduction and the total amount due to them and which of the debts or claims, if any, the company is willing to appropriate : it shall not be necessary to show in the certificate the names of any creditors who are not entitled to be entered in the list or show the several amounts of the debts or claims of the persons who have consented to the proposed reduction.

The costs of the appearance of a creditor shall be in the discretion of the Judge.

545. Evidence of consent of creditors - The consent of any creditor, whether in respect of a debt due or presently due or a debt payable on a contingency or not ascertained or a claim admissible to proof in a winding up of the company may be evidenced in any manner which the Judge shall think reasonably sufficient having regard to the amount of the debt or claim and all the circumstances of the case.

546. Petition to come on for hearing - After the expiration of eight clear days from the filing of the certificate mentioned in Rule 544, the petition shall be set down for hearing in the ordinary course upon a request in writing addressed to the Registrar by the petitioner or his Advocate to have the petition set down for hearing.

547. Advertisement of hearing - Before the hearing of the petition, notices stating the day on which the same is appointed to be heard shall be published at such times and in such newspapers as the Registrar shall direct. Such notices shall be in the prescribed Form.

548. Who may appear - Any creditor settled on the said list whose debt or claim has not, before the hearing of the petition, been discharged or determined or been secured in manner provided by section 59 of the Act, and who has not before the hearing consented to the proposed reduction of capital may appear at the hearing of the petition and oppose the application. A creditor intending so to appear shall give two days' notice in writing of such intention to the Advocate of the company and in default of such notice shall not without the leave of the Judge, be entitled to appear.

549. Cost of appearance - When a creditor who appears at the hearing under Rule 548 is a creditor the full amount of whose debt or claim is not admitted by company and the validity of whose debt or claim has not been inquired into and adjudicated upon under section 59 of the Act, the costs of and occasioned by his appearance shall be dealt with in such manner as to the Court shall seem just; but in all other cases a creditor appearing under the last preceding Rule shall be entitled to the costs of such appearance, unless the Court shall be of opinion that in the circumstances of the particular case his costs ought not to be allowed.

550. Directions at hearing - When the petition comes on for hearing, the Judge may, if he thinks fit, give such directions as may seem proper in order to secure, in manner provided by section 59 of the Act, the payment of the debts or claims of any creditors who do not consent to the proposed reduction; and the further hearing of the petition may be adjourned for the purpose of carrying any such directions into effect.

551. Order confirming reduction - Where the Judge makes an order, confirming a reduction, such order shall give directions in what manner and in

what newspapers, notice of the registration of the order and of such minutes is to be published, in accordance with the provisions of section 61(3) of the Act; and, unless the judge shall have dispensed with the further use thereof, such order shall fix the date until which the words 'and reduced' are to be deemed part of the name of the company in accordance with provisions of section 57 of the Act.

552. Publication of reasons for reduction etc - If, under the provisions of section 65 of the Act, the Judge shall think fit to require the company to publish the reasons for the reduction of its capital or the causes which led to such reduction, or any other information with regard thereto, the same shall be published in such newspapers as the Judge may direct.

SECTION C

WINDING UP PETITION

553. Form of petition - Every petition for the winding up of a company by the Court or subject to the supervision of Court shall be in either of the prescribed forms.

554. Affidavit verifying petition - Such petition shall be verified by an affidavit to be made by the petitioner or by one of the petitioners if more than one, or if the petition is presented by a corporation, by a Director, Secretary or other principal officer thereof:

Provided that if the petitioner is by reason of absence or for other good cause unable to verify such petition, the same may be verified by any person duly authorised by him in that behalf or deemed by the Court competent to verify the same. Such affidavit shall be in the prescribed Form.

555. Directions - Upon the admission of the petition, the Judge shall fix a date for the hearing thereof and give direction as to the advertisements to be published and as to the persons on whom copies are to be served.

556. Advertisement of petition - (1) The petition shall be advertised twenty- one clear days before the date fixed for the hearing thereof once in the official Gazette and once at least in two newspapers one of which shall be a daily newspaper in Hindi circulating in the locality where the company has its registered office or a principal place of business or assets and liabilities, as the case may be; and in the case of a petition to a District Court empowered under section 3 (1) of the Act, also by proclamation affixed upon a conspicuous part of the Court house, unless the Court otherwise directs.

(2) The advertisement shall state the day on which the petition was presented, and name and address of the petitioner and of his Advocate, if any, and shall be in the prescribed form.

(3) The petitioner or his Advocate shall, not less than three days before the date fixed for the hearing, make and file an affidavit that the directions as to advertisements have been observed. In default of compliance with the directions as to advertisements, the appointment for the hearing of the petition shall be cancelled and the petition removed from the file. The Judge, if satisfied as to the reasons for such default, shall fix a fresh date for the hearing of the petition and it shall thereupon be advertised in accordance with this Rule.

557. Service of petition - (1) Every petition for the winding-up of a company, unless presented by the company, shall be served at the registered office of the company, or if there is no registered office, then at the principal or last known principal place of business of the company if any such can be found, by leaving a copy thereof and a copy of the order made under Rule 555 with an officer, servant or member of the company there or in case no officer, servant or member can be found at such office, then the service shall be effected by registered post or in such other manner as the Judge may direct.

(2) If the company is at the date of the admission of the petition being wound up voluntarily, the petition shall also be served upon the liquidator, if any, appointed for the purpose of winding up the affairs of the company by leaving a copy of the petition and a copy of the order made under Rule 555 with him, or by sending copies to him by registered post or in such other manner as the Judge may direct.

(3) The due service of the petition shall be verified by affidavit in one of the prescribed forms.

558. Copies of petition to be supplied - Every contributory or creditor of the company shall be entitled to be furnished by the petitioner or his Advocate, if any, with a copy of the petition, and of the affidavit in support thereof, within twenty- four hours after requiring the same, on payment at the rate of eight annas per folio of 90 words for such copy.

HEARING OF PETITION

559. Notice of intention to appear at hearing - A person who intends to appear at the hearing of the petition shall leave with or send by registered post to, the petitioner, or his advocate, notice of such intention signed by him or by his Advocate. Such notice shall be served or if sent by registered post, shall be posted in time to reach the addressee not later than two clear days before the day appointed for the hearing of the petition. No person who has failed to comply with this Rule shall be allowed to appear at the hearing of the petition without the leave of the Judge. Such notice shall be in the prescribed form.

560. Affidavits - An affidavit intended to be used in opposition to or in support of the petition shall be filed not less than seven days before the date fixed for the hearing thereof and notice of the filing thereof shall be given to the petitioner or his Advocate on the day on which the affidavit is filed. If any person fails to comply with this Rule, the affidavit, unless the Judge otherwise directs, shall not be used at the hearing of the petition.

561. Affidavit in reply - An affidavit intended to be used in reply to an affidavit filed in opposition to the petition or in support of the petition shall be filed not less than three days before the date fixed for the hearing of the petition. Notice of such filing shall be given forthwith to the person by whom the affidavit in opposition was filed or to his Advocate.

562. Substitution of creditor or contributory for withdrawing petition - When the petitioner applies for leave to withdraw his petition or asks that it be dismissed or that the hearing thereof be adjourned or fails to appear in support thereof or if appearing does not apply for an order in terms thereof, or if for any other sufficient reason the Judge shall think fit so to do, the Judge may, upon such terms as he thinks just, substitute as petitioner any creditor or contributory who in his opinion would have a right to present a petition and is desirous of prosecuting the petition already admitted.

563. Petition not to be withdrawn before date fixed for hearing - An application for leave to withdraw a petition for winding-up which has been advertised in accordance with the provisions of Rule 556 shall not be heard at any time before the date fixed in the advertisement for the hearing of the petition.

564. Substituted petition - Where the Judge allows a creditor or a contributory to be substituted as petitioner in an application for the winding-up of the company under Rule 562, he shall adjourn the hearing of the petition to a date to be fixed by him. Such creditor or contributory shall, within seven days from the making of the order, file a clean copy of the petition with such amendments as he desires to incorporate therein, and shall also file an affidavit setting out the grounds upon which he supports the petition. The amended petition shall be treated as the petition for the winding up of the company.

565. List of persons who intend to appear at hearing - The petitioner or his Advocate shall prepare a list of the names and addresses of the persons who have given notice of their intention to appear at the hearing of the petition, and of their respective Advocates, which list shall be in the prescribed form. On the day appointed for the hearing of the petition, a copy of the list (or, if no notice of intention to appear has been given, a statement in writing to that effect) shall be submitted by the petitioner or his Advocate to the Court prior to the hearing of the petition.

WINDING-UP ORDER AND DIRECTIONS

566. Winding-up order - A winding-up order shall be in one of the two prescribed forms.

567. Procedure on winding up order - When an order for the winding-up of a company by or under the supervision of the Court has been made-

(a) the petitioner or his Advocate shall forthwith send to the Registrar of Joint Stock Companies a notice in the prescribed form together with a certified copy of the winding-up order, and

(b) the Registrar of the Court shall, except where a Liquidator is appointed simultaneously forthwith send to the Official Receiver a notice in the prescribed form informing him that the order has been pronounced.

568. Service of copy of order on the company - If the company is not the petitioner and does not appear at the hearing, a copy of the winding-up order shall be served by the petitioner upon the company.

569. Advertisement and service of winding-up order - Every order for the winding-up of a company, unless the Judge otherwise directs, shall, within twenty- one days after the date thereof, be advertised, once in the Gazette of India and once in the Rajasthan Gazette. The said order shall also be published in such newspaper or newspapers and be served upon such person and in such manner as the Judge may direct. The advertisement shall be in the prescribed form.

The estimated cost of the aforesaid advertisement shall be deposited in Court by the petitioner or by the substituted petitioner, as the case may be, within seven days of the making of the order.

570. Notice of applications by official Liquidator - All applications by an Official Liquidator shall be made on notice to such persons as may be affected by the order sought for and to such other persons as the Court may direct.

SECTION D—Provisional and Official Liquidators

Appointment of Provisional Liquidator

571. Contents of orders appointing provisional Liquidator - The order appointing a Provisional Liquidator shall state the nature and description of any property of which possession is ordered to be taken and the duties of the Provisional Liquidator. Such order shall be in the prescribed form.

572. Appointment of official Liquidator - The Court may appoint a person to the office of Official Liquidator without any previous advertisement or notice to any party, or may fix a time and place for the appointment of an Official Liquidator, and may appoint or reject any person nominated at such time and place, and appoint any person not so nominated.

573. Advertisement as to appointment - When a day is fixed for the appointment of an Official Liquidator, notice of such day shall be advertised in such manner as the Judge may direct, but so that the first or only advertisement shall be published not less than seven days before the day so fixed. The notice shall be in the prescribed form.

574. Nomination - Any creditor or contributory may, on the date fixed for such appointment, nominate any person or persons for appointment as Official Liquidator, and every nomination shall be in writing signed by the nominator and nominee and contain an undertaking by the nominee that he will furnish such security as the Judge may order. The nomination shall be in the prescribed form.

575. Order of appointment not to issue until security furnished - Where an Official Liquidator is appointed subject to his furnishing security to the satisfaction of the Judge or Registrar, no copy of the order shall issue (except for purposes of appeal and except where the Court otherwise directs) until such security has been furnished and certified as hereinafter provided. A certified copy of the order appointing an Official Liquidator, whether with or without security, shall be filed by him with the Registrar of Joint Stock Companies within a fortnight of the order being made or within ten days of the security being furnished, where security has been directed.

576. Furnishing of security - Every Official Liquidator, directed to furnish security, shall do so by depositing Government Securities or by entering into a bond with one or more sufficient sureties within such time as the Judge may direct. Such bond shall be in one of the prescribed forms and the affidavit by such sureties shall also be in the prescribed form.

577. Certificate of Registrar - Where security is furnished by a Liquidator in accordance with Rule 576, a certificate shall be issued by the Registrar or the District Judge, as the case may be, certifying that the security has been duly furnished. Such certificate shall be in the prescribed form.

578. Failure to give or maintain security - (1) If a Provisional Liquidator or Official Liquidator fails to furnish the required security within the time ordered or within any extension thereof, the Judge may rescind the order of appointment, and make such other appointment, and order as to costs as he considers fit and proper.

(2) If a Provisional Liquidator or Official Liquidator fails to maintain the security ordered to be furnished, the Judge may remove him and make such other appointment and such order as to costs as he may think fit.

579. Insufficient or excessive security - If it shall appear at any time that the security furnished by the Provisional Liquidator or Official Liquidator is inadequate or excessive the Judge may upon the application of the Provisional Liquidator or Official Liquidator or of a creditor or contributory order that the security be increased or reduced in amount.

580. Form of order - An order made for the appointment of an Official Liquidator shall be in the prescribed form.

581. Advertisement of appointment of Official Liquidator - The appointment of an Official Liquidator shall be advertised by such Liquidator in such manner as the Judge may direct immediately after the order has been made. Such advertisement shall be in the prescribed form.

582. Filing of accounts - Every Official Liquidator shall at such time as may be directed by the Court but not less than twice in each year during his tenure of office file in Court an account of his receipts and payments as such Liquidator. The account shall be in duplicate and shall be verified by affidavit. The accounts and affidavit shall be in one of the prescribed forms.

583. Audit - Upon the accounts being filed in the Court, the Registrar or the District Judge, as the case may be, shall cause the accounts to be audited. For the purposes of such audit the Liquidator shall produce before the auditor all vouchers, books and accounts, which may be required by the auditor in support of the said account and shall furnish such information as the auditor may require. After the accounts have been audited, one copy thereof shall be filed in the Court and the duplicate shall be sent by the Registrar or the District Judge, as the case may be, to the Registrar of Joint Stock Companies to be kept with his records. Notice of such audit shall be given to such persons as the Court may direct.

584. Circumstances in which fresh security may be required - Whenever an Official Liquidator shall submit his accounts to be passed, and also at other times whenever the Judge may so direct, the Official Liquidator shall satisfy the Judge by affidavit or otherwise as the Judge may direct, that his

sureties are living, and resident in India, and have not been adjudged insolvent, or in the case of a corporation, that such surety is carrying on business in India, and in default thereof he may be directed to furnish fresh security.

585. Liquidator not to have dealings with company - (1) An Official Liquidator, except by leave of the Judge, shall not directly or indirectly, by himself or by any partner, clerk agent, servant or otherwise into any transaction of any nature whatsoever with the company or himself as such Liquidator.

(2) Any transaction made in breach of the provisions of sub-rule(1) may be set aside by the Judge on the application of any creditor or contributory or of his own motion. The Judge may forthwith remove an Official Liquidator acting in breach of sub-rule (1) and may make such order as to costs as he may think fit.

(3) In any case in which the leave of the Judge is given under sub-rule (1), all costs of obtaining such leave shall be borne by the person in whose interest such leave is obtained, and shall not be payable out of the Company's assets.

Banking Account and Investment by Official Liquidator

586. Official Liquidator to open Banking account - Upon a winding up order being made, the Official Liquidator shall as soon as may be after his appointment open an account in the name of the Official Liquidator of the Company in Liquidation with a Scheduled Bank as defined in clause (e) of section 2 of the Reserve Bank of India Act, 1934, or with such other bank as the Court may select on an application made by him for the purpose under the proviso to section 244A of the Act. All moneys received in the course of the winding up shall be paid into such account within ten days after the receipt thereof. An authority to open an account with the bank shall be in the prescribed form.

587. Operation of account - No money shall be paid out of the aforesaid bank except upon cheque or order signed by the Official Liquidator and countersigned by such person as is hereinafter mentioned in Rule 589.

588. Disposal of negotiable instruments - (1) All bills, hundies, notes and the other securities of a like nature payable to the company or to the Official Liquidator thereof shall, unless the Judge otherwise directs, as soon as they shall come to the hands of such Liquidator be deposited by him with such bank for the purpose of being presented for acceptance and payment or for payment only, as the case may be.

(2) No bills, hundies, notes or other securities deposited as aforesaid shall be delivered out save upon a request signed by the Official Liquidator and countersigned by such person as is hereinafter mentioned in Rule 589.

589. Counter signing authority - Unless otherwise ordered by the Judge, the Person authorised to countersign under Rules 587 and 588 shall, where the powers mentioned in section 179 (f) of the Act have been delegated to the Official Liquidator, be such member as the Committee of Inspection shall appoint for the purpose, and where there is no committee of inspection, or the powers have not been delegated to the Official Liquidator, be the Registrar:

Provided that the Judge may dispense altogether with such countersignature.

590. Investment of surplus funds - All or any part of the money for the time being standing to the credit of the account of the Official Liquidator at the bank and not immediately required for the purposes of winding up, may be invested in the name of the Official Liquidator in such securities as may be approved by the Judge. All such investments shall be made by the bank upon a request signed by the official Liquidator; such request shall be in the prescribed form. Such securities shall be retained by the bank in the name and on behalf of the Official Liquidator and shall not afterwards be sold or transferred or otherwise dealt with except with the leave of the Judge.

591. Interest and dividends on investments - All dividends and interest to accrue due from any such securities shall from time to time be received by the bank (for which purpose the Official Liquidator may execute such power or powers of attorney as may be necessary) and placed to the credit of the account of such Official Liquidator.

Books of account and records of Official Liquidator

592. Records to be maintained by Official Liquidator - The Official Liquidator shall forthwith upon his appointment provide and keep proper books of accounts for the purpose of showing the receipts and payments of the company in its liquidation and of all such transactions and matters as may be necessary to furnish a correct record of his administration of the affairs of the company. In particular, he shall keep: —

(a) a cash book, in which shall be entered from day to day all receipts and payments,

(b) a ledger, which shall include individual accounts of the contributories, in which every contributory shall be debited with the amount payable by him in respect of any call, and

(c) a book to be called the "Record Book" in which shall be recorded all minutes, all proceedings had, and resolutions passed at any meeting of creditors or contributories or of the Committee of Inspection and all such matters other than matters of account as may be necessary to furnish a correct view of his administration of the affairs of the company. The Official Liquidator shall not be bound to insert in the Record Book any documents of a confidential nature, nor need he exhibit such

document to any person other than the Judge or a member of the Committee of Inspection.

593. Separate books of account if business of company carried on - Where the Liquidator is authorised to carry on business of the company, he shall keep separate books of accounts in respect of such business.

594. Copies of accounts - A creditor or a contributory shall be entitled to obtain from the Court or from the Registrar of Joint Stock Companies a copy of any account filed by the Liquidator upon payment of the prescribed fees.

STATEMENT OF AFFAIRS

595. Statement of affairs - Any person who under section 177-A of the Act has been required by the Official Liquidator to submit and verify a statement as to the affairs of the company shall be furnished by him with such forms and instructions as he may in his discretion consider necessary. The statement shall be prepared in duplicate, one copy of which shall be verified by an affidavit. The Official Liquidator shall cause the verified statement to be filed in the Court and shall retain the duplicate thereof for his records.

596. Personal interviews - The Official Liquidator may from time to time, whether before or after the submission of the statement, hold personal interviews with persons required to submit the statement for the purpose of investigating the company's affairs, and it shall be the duty of every such person to attend on the Official Liquidator at such time and place as the Official Liquidator may appoint and give the Official Liquidator all information that he may require and answer all such questions as may be put to him by the Official Liquidator.

597. Costs of statement and affidavit - Any person making or concurring in the making of a statement of affairs as required by section 177-A of this Act shall be paid by the Official Liquidator out of the assets of the company such costs and expenses incurred in or about the preparation and making of the statement and affidavit as the Official Liquidator may consider reasonable or as the Judge may on application by such person direct.

598. Extension of time for making statement - (1) Where any person required to submit a statement under section 177-A of the Act requires an extension of time, he shall apply in the first instance to the Official Liquidator who may, if he thinks fit, give a written certificate extending the time and this certificate shall be filed with the proceedings in the winding-up.

(2) Where the Official Liquidator refuses to grant an extension of time for submitting the statement of affairs, the person required to submit the statement may on notice to the Official Liquidator apply to the Judge.

599. Dispensing with statement of affairs - An application to dispense with the requirements of section 177-A of this Act shall be supported by a report of the Official Liquidator showing the special circumstances which in his opinion render such a course desirable. Where the Judge makes an order dispensing with the requirements of the section, he may give such consequential directions as he thinks fit.

600. Further reports by Official Liquidator - The Official Liquidator if he thinks fit may in addition to the report required under section 177-B of the Act, make from time to time further reports to the Court stating the manner in which the company was formed and whether in his opinion any fraud has been committed by any person in its promotion or in its formation or by any director or other officer of the company in relation to the company since the formation thereof and any other matters which in his opinion it is desirable to bring to the notice of the Court.

601. Directions on further report - Where a further report is made by the Official Liquidator under the preceding Rule, the Judge shall fix a date when the said report shall be considered, and shall on the date so fixed give such directions to the Official Liquidator as he may think fit in relation thereto. The Official Liquidator shall personally or by Advocate attend the consideration of the report and give the Court any further information or explanation with reference to the matters stated therein which the Court may require.

COMMITTEE OF INSPECTION

602. Report to be made to Court - As soon as possible after the meeting of the creditors and contributories held in accordance with section 178-A of the Act the Official Liquidator shall report the result of such meeting to the Court.

603. Directions where Contributories and creditors differ - Where there is a difference between the determinations of the meetings of the creditors and contributories, the Judge shall on the application of the Official Liquidator fix a time and place for consideration of the resolutions and determinations and make such order as may be necessary. Where there is no such difference the Judge may on the application of the Liquidator forthwith make any appointment necessary for giving effect to such resolutions or determinations.

604. Advertisement of hearing - When the time and place has been fixed for the consideration of the resolution and determinations of the meetings, such time and place shall be advertised by the Liquidator in such manner as the Judge may direct.

605. Procedure of hearing - On the date fixed in accordance with Rule 603, the Judge shall hear the Liquidator and any creditor or contributory who may appear on the application.

606. Travelling expenses of members of committee of Inspection

- The Judge may sanction the payment of such amount as he thinks fit in respect of travelling expenses incurred by members of the Committee of Inspection in attending meetings of the Committee.

VACANCY IN OFFICE OF OFFICIAL LIQUIDATOR

607. Vacancy in office of Official Liquidator - If an Official Liquidator appointed by the Court dies or resigns or is removed, another Official Liquidator may be appointed in his place in the manner provided for the making of the first appointment.

608. Resignation of Official Liquidator - An Official Liquidator who desires to resign his office shall apply to the Judge by petition for permission, and thereupon the Judge shall determine whether or not the resignation shall be accepted, or may give such directions and make such order as he may deem expedient.

609. Insolvency of Official Liquidator - If an Official Liquidator be adjudged insolvent, the Judge shall, upon the application of any creditor or contributory, remove such Liquidator.

610. Delivery of property to successor - Upon an Official Liquidator being permitted to resign or removed from his office, he shall deliver to his successor or to such person as the Judge may direct the property and assets of the company in his hands and all books kept by him and all other books, documents, papers and accounts in his possession relating to the company.

611. Disposal of records - The Judge may, at any time during the progress of the liquidation, on the application of the Official Liquidator, give directions as to the disposal of such of the books, papers and documents of the company or of the Official Liquidator as are no longer required for the purpose of the liquidation.

REMUNERATION OF OFFICIAL LIQUIDATOR

612. Remuneration - (1) The Official Liquidator shall receive such remuneration as the Judge may direct, and such remuneration may be fixed either at the time of his appointment, or thereafter and may be altered. Such remuneration may be fixed or altered so as to cover or exclude the employment of assistants or clerks, office rent and incidental expenses. No money shall be appropriated to such remuneration, save upon the passing of the account, or upon an application by the Official Liquidator for that purpose on notice to such person and supported by such evidence as the Judge may direct; provided

nevertheless that the Judge may from time to time allow an Official Liquidator to appropriate such sum as he may think fit on account of remuneration to be thereafter fixed.

(2) An Official Liquidator shall not accept or agree to accept from any person any gift, remuneration or benefit whatever nor shall he without the sanction of the Judge give up or agree to give up any part of such remuneration to any person.

PROOF OF DEBTS

613. Advertisement for claims - For the purpose of ascertaining the debts due by and claims against the company and of requiring debts and claims to be proved an advertisement shall be published by the Official Liquidator in such manner as the Judge may direct, such advertisement being in the prescribed form. Unless otherwise ordered by the Judge the date fixed in the advertisement shall not be less than fourteen days from the date of the publication thereof.

614. Creditors to prove claim - In a winding up by the Court, every creditor shall, subject as hereinafter provided, prove his debts unless the Judge in any particular case shall direct that any creditor or class of creditors shall be admitted without proof.

615. Proof by affidavit - (1) A debt may be proved by affidavit which may be made by the creditor himself or by some person authorised by him or on his behalf. If made by a person so authorised, the affidavit shall state his authority and means of knowledge.

(2) The affidavit shall contain or refer to a statement of account showing the particulars of the debt and shall specify the vouchers, if any, by which the same can be substantiated. The Liquidator to whom such proof is sent may at any time call for the production of the vouchers.

(3) The affidavit shall state whether the creditor is or is not a secured creditor. Where the creditor seeks, to prove in respect of a bill of exchange, promissory note or any other negotiable instrument or security of a like nature on which the company is liable, such bill of exchange, note, instrument or security shall be produced before the liquidator and be marked by him before the proof is admitted.

(4) The affidavit shall be in the prescribed form.

616. Discount - A creditor proving his debt shall deduct therefrom all trade discount, but he shall not be compelled to deduct any discount, not exceeding five per cent, on the net amount of his claim, which he may have agreed to allow for payment in cash.

617. Periodical payments - When any rent or other payment falls due at stated periods, and the order or resolution to wind up is made at any time other than one of such periods, the persons entitled to the rent or payment may prove for a proportionate part thereof up to the date of the winding up order or resolution as if the rent or payment grew due from day to day;

Provided that where the Official Liquidator remains in occupation of premises demised to a company which is being wound up, nothing herein contained shall prejudice or affect the right of the landlord of such premises to claim payment by the company, or the Official Liquidator, of rent during the period of the company's or the Official Liquidator's occupation.

618. Estimation of value of debts and claim - The value of all debts and claims against the company shall, so far as may be, be estimated according to the value thereof at the date of the order to wind up the company.

619. Dividends payable for principal and interest - Creditors whose debts and claims carry interest, and are allowed, shall be entitled to receive dividends upon what was due for principal and interest at the date of the winding up. In the event of there being a surplus the Official Liquidator shall pay to such creditors further interest on the amount of their admitted claims at such rate as shall be fixed by the Court.

620. Interest - On any debt or certain sum, payable at a certain time or otherwise, whereon interest is not reserved or agreed for, and which is overdue at the date of the winding up order or resolution, the creditor may prove for interest at a rate not exceeding six per cent per annum to that date from the date when debt or sum was payable if the debt or sum was payable by virtue of a written instrument at a certain date; and if payable otherwise, then from the date when a demand in writing has been made giving notice that interest would be claimed from the date of the demand until the date of payment.

621. Proof for debt payable at a future time - A creditor may prove for a debt not payable at the date of the winding up order or resolution, as if it were payable presently, and may receive dividends equally with the other creditors, deducting there out only a rebate of interest at the rate of five per cent per annum computed from the declaration of a dividend to the date when the debt would have become payable according to the terms on which it was contracted.

622. Workmen's wages - Where it appears that there are numerous claims for wages by workmen and others employed by the company, it shall be sufficient if one proof for all such claims is made either by a foreman or by some other person on behalf of all such creditors. Such proof shall have annexed thereto, as forming part thereof, a schedule setting forth the names of the

workmen and others, and the amounts severally due to them (Form prescribed). Any proof made in compliance with this Rule shall have the same effect as if separate proof had been made by each of the said workmen and others.

623. Notice of investigation - A debt may be proved in a winding up by delivery of or sending by post an affidavit verifying the debt, to the Official Liquidator and a creditor need not attend upon the investigation unless required to do so by a notice from the Official Liquidator. Such notice may be given by post at the last known address of the creditor and shall be in the prescribed form.

624. Production of securities and vouchers - The Official Liquidator may at any time call production of the securities or vouchers specified in the affidavit referred to in Rule 615 and in default of such production may reject the proof.

625. Disposal of claims - The Official Liquidator shall within two months after receiving a proof either admit or reject it wholly or in part and shall thereupon inform those creditors whose claim he wholly admits of his decision in respect of such claims. If he rejects the proof, he shall state in writing to the creditor the grounds of such rejection.

626. Settlement of list of creditors - When the Official Liquidator has completed his investigation of all debts and claims, he shall file a list thereof in Court supported by an affidavit and obtain an appointment from the Judge to settle the same. He shall give not less than seven days notice of such appointment to every person included in such list, except those whose claims he wholly admits, stating that his debt or claim has been rejected in whole or in part as the case may be and requiring him to prove as much of it as has been rejected before the Judge, Such affidavit and notice shall be in the prescribed forms.

627. Cost of proof - Such creditors as prove their debts or claims shall, unless the Judge otherwise directs, bear the costs of such proof.

628. Settlement of the list of debts & claims - The settlement of the list of debts or claims shall be recorded in a certificate signed by the Judge in the prescribed form.

629. (1) Expunging proof at instance of Official Liquidator - If the Official Liquidator is of opinion that a proof has been improperly admitted, he may apply, on notice to the creditor who made the proof, to expunge the proof or reduce its amount.

(2) Expunging at instance of creditor - If the Official Liquidator declines to interfere in the matter, a creditor or contributory may apply to the Judge to expunge or reduce a proof.

COLLECTION AND DISTRIBUTION OF ASSETS

630. Duty of Official Liquidator - The duties imposed on the Court by section 184 (1) of the Act in a winding up by the Court, with regard to the collection of the assets of the company, and the application of the assets in discharge of the company's liabilities, shall be discharged by the Official Liquidator as an officer of the Court subject to the control of the Judge.

631. Official Liquidator to have powers of a Receiver - For the purpose of the discharge by the Official Liquidator of such duties, the Official Liquidator shall for the purpose of acquiring or retaining possession of the property of the company, be in the same position as if he were a Receiver of property appointed by the Court, and the Judge may, on his application, enforce such acquisition or retention accordingly.

LIST OF CONTRIBUTORIES

632. Official Liquidator to settle list of contributories - After his appointment, the Official Liquidator shall, with all convenient speed prepare a list of the contributories of the company and shall, appoint a time and place for the preliminary settlement of such list. The Official Liquidator shall, so far as is practicable, state therein the respective addresses of and the number of shares or extent of interest to be attributed each contributory, and shall distinguish the several classes of contributories. As regards representative contributories the Official Liquidator shall observe the requirements of section 184 (2) of the Act.

633. Appointment of time and place for settlement of list - The Official Liquidator shall give notice in writing of the time and place appointed for the preliminary settlement of the list of contributories to every person included in the list, and shall state in the notice to each person in what character and for what number of shares or interest such person is included in the list. Such notice shall be in the prescribed form and due service thereof shall be proved by an affidavit in the prescribed form.

634. Settlement of preliminary list of contributories - On the day appointed for the preliminary settlement of the list of contributories, the Official Liquidator shall hear any person who has any objection to prefer with reference to his inclusion (or to the extent thereof) in the said list, and after such hearing, the Official Liquidator shall complete the preliminary settlement of the list and file the same. Such list shall be in the prescribed form.

635. Notice of date appointed for settlement of final list of contributories - Upon the list of contributories being filed, the Official Liquidator shall obtain an appointment from the Judge to settle the same, and shall give notice in writing of such appointment to every person included in such list, stating in what character and for what number of shares or interest such person is included in such list and by such notice shall inform such person that any application for the removal of his name from the list, or for any other variation of the list, shall be made on such appointed day. Unless the Judge otherwise directs, no application to vary the list as filed shall be entertained unless made on the day so appointed. Any application for such purpose made on any day other than the day so appointed shall be made by petition to be served on the Official Liquidator at least four clear days before the returnable date of such petition, and unless good cause be shown that such application could not have been made on the appointed day, all costs of and incidental to such application shall be payable by the applicant. The notice prescribed by this Rule shall be in the prescribed form.

636. Settlement of final list of contributories - Upon the settlement of the list by the Judge, the same shall be endorsed and signed by him. Such endorsement shall be in the prescribed form.

637. Variation or addition to list of contributories - The Official Liquidator may from time to time apply to the Judge to vary the list of contributories. Upon such application the Judge shall give such directions as to notice and other matters and make such order as may be necessary.

638. Address of contributory for service - The address of a contributory as stated in such list shall, unless otherwise directed by the Judge, be his address for service under these Rules.

639. Calls by Official Liquidator -Where the Official Liquidator desires to make any call on a contributory or contributories for any purpose authorised by the Act, he shall in the first instance summon a meeting of the Committee of Inspection, if any, for the purpose of obtaining their sanction to the intended call. The notice of such meeting shall be sent to each member of the Committee of Inspection and shall contain a statement of the proposed amount of the call and the purpose for which it is needed. The sanction of the Committee of Inspection shall be given by a resolution passed by a majority of the members. Where there is no Committee of Inspection, the Liquidator shall not make a call without obtaining the leave of the Court.

640. Application to the Court for leave to make a call - Where there is no Committee of Inspection, or where the Official Liquidator does not agree with the decision of the Committee of Inspection, he may apply to the Court for leave to make a call and the Court shall on such application make such orders as it thinks fit. If on the hearing of such application, the Court gives leave to the

Official Liquidator to make a call, the subsequent proceedings shall be in accordance with the provisions of Rule 643.

641. Form of petition - An application by the Official Liquidator for leave to make a call on contributories of the company or any of them shall be made by petition. Such petition shall be in the prescribed form.

642. Notice of petition - If the Judge admits the petition, he shall fix a date for the hearing thereof, and notice of such appointed date shall be given by advertisement or otherwise as the Judge may direct. No contributory shall be served with individual notice unless the Judge so directs and every notice and advertisement to be served, given or published under this Rule shall be served or published at least fourteen days before the date so appointed. Such notice shall be in the prescribed form.

643. Payment of a call - When any order authorising a call has been made, a copy thereof shall forthwith be served by registered post, or as the Judge may direct, upon each of the contributories liable to pay such call, together with a notice by an Official Liquidator specifying the amount due from such contributory in respect of such call. Such order and notice shall be in the prescribed forms. At the time of making an order authorising the call, the Judge shall give directions as to the time within which such calls shall be paid and shall indicate whether the payment shall be made to the Official Liquidator or to the bank where the Liquidator has his account.

644. Order for payment of amount due from a contributory - The payment of the amount due from each contributory may be enforced by order of the Judge to be made on petition by the Liquidator supported by an affidavit. Such petition and order shall be in the prescribed forms. Service of the order shall be effected in such manner as the Court may direct. The affidavit of service of the order shall be in the prescribed form.

COMPROMISE OF CLAIMS BY COMPANY

645. No compromise of claims without sanction of the Court - No claim by the company against any person shall be compromised or abandoned by the Official Liquidator without the sanction of the Judge upon notice to such person or persons as the Judge may direct.

646. Application for compromise to be accompanied by affidavit of Official Liquidator - Every application for sanction to a compromise or arrangement with any person indebted to the company shall be supported by the affidavit of the Official Liquidator stating that he is satisfied for reasons stated

in such affidavit that the proposed compromise or arrangement would be beneficial to the company.

APPEALS AGAINST AN ACT OR DECISION OF THE LIQUIDATOR

647. (1) Appeals from decision of Official Liquidator - If a creditor or contributory is dissatisfied with any act or decision of the Official Liquidator on any matter, the Judge may on the application of such creditor or contributory reverse or vary it.

(2) Limitation - An application under section 183 (5) of the Act shall be made by petition supported by the affidavit of the applicant on notice to the Official Liquidator, and shall be made within twenty-one days from the date of the act or decision complained of.

PROCEEDINGS UNDER SECTIONS 215 AND 216 OF THE ACT

648. (1) Appeal under section 215 - An appeal under section 215 of the Act shall be by petition verified by affidavit on notice to the Liquidator.

(2) Application under section 216 - An application under section 216 of the Act shall be by petition verified by affidavit. Notice of the application shall be given to such person or persons as the Court may direct.

SALE OF PROPERTY

649. Sale of Property - No property belonging to a company which is being wound up by the Court shall be sold by the Liquidator without the sanction of the Court. Where a sale is sanctioned by the Court, the sale shall be held by the Liquidator, or if the Judge so directs, by an agent or auctioneer appointed by him for such purpose. All sales shall, unless the Judge otherwise directs, be made by public auction.

650. Special contracts of sale - In a sale of movable property, unless the Judge otherwise directs, the conditions of sale shall be the same as those in force in sales under decrees or orders of the Court. Where for special reasons the Liquidator is of opinion that a special contract is necessary, he shall apply to the Judge to settle the terms.

651. Payment of purchase price - The purchase money in a sale held in accordance with Rule 649 shall be paid in such manner as the Judge may direct, and in the absence of any directions shall be paid by the purchaser to the Official Liquidator or to his credit at the bank where he has his account.

DIVIDEND

652. Court to sanction declaration of dividend - No dividend shall be declared by the Official Liquidator without the sanction of the Court.

653. Notice of intention to apply for leave to dividend - Not less than two months before applying to the Court for leave to declare a dividend, the Official Liquidator shall give notice of his intention to do so to such of the creditors mentioned in the statement of affairs as have not proved their debt. Such notice shall specify the latest date up to which proof may be lodged and such date shall not be less than fourteen days from the date of such notice.

654. Disposal of claim - Where any proof is lodged pursuant to such notice, the Official Liquidator shall in relation to the admission or rejection thereof act in accordance with Rule 625. The Official Liquidator shall apply, if necessary, to vary the list of creditors settled by the Court.

655. Notice of intention to declare a dividend - Notice shall be given by the Official Liquidator of the declaration of each dividend. Such notice shall be given by advertisement (unless the Judge otherwise directs) and by sending by prepaid letter, post a notice to every person whose name appears in the list of creditors as certified. Such notices shall be in the prescribed forms.

656. Payment of dividends by post - Dividends may, at the request and risk of the person to whom they are payable, be transmitted to him by post.

657. Authority to pay dividend to named person - A person to whom dividends are payable may lodge with the Official Liquidator an authority in writing to pay such dividends to another person named therein. Such authority shall be in the prescribed form.

658. Form of order - Every order by which the Official Liquidator in a winding up by Court is authorised to make a return to contributories of the company shall, unless the Judge otherwise directs, contain or have appended thereto a schedule (prepared by the Official Liquidator setting out in tabular form the names and addresses of the persons to whom the return is to be made and the amount of money payable to each person and particulars of the transfers of shares (if any) which have been made or the variations in the list of contributories which have arisen since the date of settlement of the list of contributories. The schedule or list shall be in the prescribed form and notice of the return shall be given to each contributory in the prescribed form.

SECTION E-General Meeting of Creditors and Contributories

659. General meetings - All general meetings of creditors or contributories shall, unless the Judge otherwise directs, be convened and held in the manner hereinafter provided.

660. Notice of meeting - The Official Liquidator shall summon a meeting by giving not less than seven days' notice of the time and place thereof in two daily newspapers circulating in the State of Rajasthan and shall, not less than seven days before the day fixed for the meeting, send notice thereof by prepaid letter post to every person appearing to him entitled to be present thereat. Such notice shall be in the prescribed form.

661. Proof of notice - In the case of a meeting convened by direction of the Judge, the Official liquidator shall certify by affidavit that the requisite notices of the meeting have been duly posted. Such affidavit shall be in the prescribed form.

662. Time and place of meeting - All meetings shall be held at such time and place as in the opinion of the Official Liquidator is most convenient.

663. Costs of calling meeting - The Official Liquidator may require a creditor or contributory who desires that a meeting be convened, to deposit as a condition precedent thereto a sum sufficient to cover the costs thereof. On an application to the Judge by a creditor or contributory for a direction to the Official Liquidator to convene a meeting, the Judge may, whether the Official Liquidator has or has not required such deposit to be made, fix a sum to be deposited by the applicant on account of such costs.

Such sum shall cover the cost of printing, stationery, postage and hire of room and shall be calculated in the following manner, namely:—

Rupee one per creditor or For the first twenty-five contributory.
creditors or contributories.

Annas eight per creditor or For the next seventy-five contributory.
creditors or contributories.

Annas four per creditor or For the remaining creditors contributory.
or contributories.

Any sum deposited under this Rule, shall, if the Judge so directs, be repaid out of the assets of the Company.

664. Chairman of meeting - At every meeting of creditors or contributories the Official Liquidator, or some person nominated by him, shall

be the Chairman of the meeting. In the event of more than one person being appointed Official Liquidators, the person named first in the order of appointment shall be entitled to take the chair or make the aforesaid nomination. Such nomination shall be in the prescribed form.

665. (1) Ordinary resolution of creditors - At a meeting of creditors a resolution shall be deemed to have been passed when a majority in number and value of the creditors present personally or by proxy, and voting on the resolution, have voted in favour of the resolution.

(2) Contributories - At a meeting of contributories a resolution shall be deemed to have been passed when a majority in number and value of the contributories present personally or by proxy, and voting on the resolution have voted in favour of the resolution, the value of the contributories being determined according to the number of votes conferred on each contributory by the regulation of the company.

666. Copy of resolution to be filed - The Official Liquidator shall file with the Registrar a copy certified by him to be correct of every resolution passed at a meeting of creditors or contributories.

667. Non-receipt of notice not to invalidate proceedings - No proceedings or resolutions had or passed at a meeting of creditors or contributories shall, unless the Judge otherwise orders, be invalidated by reason of any creditor or contributory not having received notice thereof.

668. Adjournment - The Chairman may, with the consent of the meeting, adjourn it from time to time, but the adjourned meeting shall be held at the same place as the original place of meeting unless in the resolution for adjournment another place is specified, or unless the Judge otherwise directs.

669. Quorum - (1) A meeting may not act for any purpose except for the adjournment of the meeting unless there are present thereat in person at least three creditors, or contributories entitled to vote.

(2) If within half an hour from the time appointed for the meeting a quorum of creditors or contributories is not present, the meeting shall be adjourned to the same day in the following week at the same time and place, or to such other day as the Chairman may appoint, not being earlier than seven or later than fourteen days. At such adjourned meeting two creditors or contributories present in person shall form a quorum and may transact the business for which meeting was convened.

670. Circumstances in which creditor may not vote - (1) Unless the Judge otherwise directs, no person shall be entitled to vote at a meeting of

creditors unless he had lodged with the Official Liquidator a proof of the debt which he claims to be due to him from the Company, and such proof has been admitted wholly, or in part, before the date on which meeting is held.

(2) A creditor shall not vote in respect of any unliquidated or contingent debt, or any debt the value of which is not ascertained.

671. Votes of secured creditors - For the purpose of voting, a secured creditor shall, unless he surrenders his security, state in his proof the particulars of the security, the date when it was given and the value at which he assesses it, and shall be entitled to vote only in respect of the balance (if any) due to him after deducting the value of his security.

672. Creditor required to give up security - If a secured creditor votes in respect of his whole debt, he shall be deemed to have surrendered his security, unless the Judge on application is satisfied that the omission to value the security has arisen from inadvertence.

673. Minute of meetings - The Chairman shall cause minutes of the proceedings at the meeting to be drawn up and fairly entered in a book kept for that purpose, and shall sign the same and affix by his own hand the date of such signature.

674. Report by Chairman - The Chairman of a meeting summoned by the direction of the Judge shall report the result thereof to the Judge. Such report shall be in the prescribed form.

PROXIES

675. Proxies - A creditor or contributory may vote either in person or by proxy.

676. Form of proxy - Every instrument of proxy shall be in the prescribed form unless the Judge otherwise directs.

677. Form of proxy to be sent with notice - A form of proxy shall be sent to the creditors and contributories with the notice summoning the meeting. Neither the name nor description of the Official Liquidator nor of any other person shall be printed or inserted in the body of any form of proxy so sent.

678. Persons who may not be appointed proxies - (1) No creditor shall appoint a proxy who is not a creditor of the company or whose debt or claim has not been admitted or allowed and no contributory shall appoint a proxy who is not a contributory of the company, but a creditor or contributory may appoint the Official Liquidator to act as his proxy.

(2) No minor shall be appointed a proxy.

679. Proxies to be lodged with the Official Liquidator - Unless the Judge directs otherwise, a proxy shall be lodged with the Official Liquidator not later than four O' clock in the afternoon of the day before the meeting or adjourned meeting at which it is to be used, and no proxy shall be admitted there after.

680. Companies & corporations - Where a limited company or a corporation is a creditor, any person who is duly authorised in writing by the company or corporation to act generally on its behalf at meetings of creditors and contributories and to appoint himself or any other person to be the company's or corporation's proxy, may fill in and sign the form of proxy on such company's or corporation's behalf appointing himself or any other person to be its proxy and a proxy so filled in and signed by such person shall be received and dealt with as the proxy of the company or corporation.

681. Use of proxies by deputy - Where an Official Liquidator holds any proxies and cannot attend the meeting for which they are given, he may by a direction in writing depute some other person to use the proxies on his behalf in such manner as he may direct.

682. Completion of proxy where creditor is blind or incapable - The proxy of a creditor who is blind or incapable of writing may be accepted if such creditor has attached his signature or mark thereto in the presence of witness:

Provided that such witness has added to his signature his own description and residence that all insertions in the proxy are in his handwriting and that he has certified at the foot of the proxy that all such insertions were made by him at the request and in the presence of the creditor before such creditor attached signature or mark to the proxy.

683. Proxies signed otherwise than in Hindi or Roman Character - A proxy signed otherwise than in Devanagri or Roman characters shall also bear adjacent to the signature, the name of the signatory in Devanagri or Roman characters, and where such name is that of a creditor or contributory, the Official Liquidator shall not be bound to make further enquiry as to the genuineness of such signature.

684. Holder of proxy not to vote on matter in which he is financially interested - No person acting under either a general or a special proxy shall vote in favour of any resolution which would directly or indirectly place him, his partner or employer in a position to receive any remuneration out of the estate of the company otherwise than as a creditor rateably with the other creditors of the company:

Provided that where any person holds special proxies to vote in favour of the appointment of himself as Official Liquidator, he may use the said proxies and vote accordingly.

SECTION F

Examination of persons suspected of having property of Company

685. Application under section 195 - An application for the examination of a person under section 195 of the Act shall be made *ex parte* to the Judge by petition verified by the Official Liquidator stating the facts upon which the application is based. At the hearing of the application the Judge may, if satisfied that a *prima facie* case for such examination has been made out, direct the issue of a summons against the person named in the order; for examination or for production of documents or for both. The summons shall be in the prescribed form.

686. Official Liquidator may attend examination - At the examination of a person so summoned, the Official Liquidator may attend in person, or by an Advocate, and assist the Court in examining the person summoned.

687. Examination not to be in open Court - (1) At such examination, save and except the Liquidator and the Advocate employed by him and the person to be examined no person shall be entitled to attend.

(2) Unless the Judge otherwise directs, no such examination shall be made in open Court. The notes of the deposition of a person so examined shall be signed by him and shall be filed in court. They shall not be open to the inspection of any creditor, contributory or person other than the Official Liquidator. No person other than the person examined and the Official Liquidator shall be entitled to a copy. Unless the Judge otherwise directs, such copy shall be supplied on payment of the usual charges.

688. Conduct of Examination - In the High Court the Judge may, at the time of making the order for such examination, direct that it shall be held by an officer of the High Court, and that the powers of the Court as to the conduct of the examination shall be exercised by such officer. He shall have no power to make any order as to costs.

PUBLIC EXAMINATION

689. Procedure consequent on order for public examination - An order by the Judge under section 196 of the Act shall be in the prescribed form. Where such order has been made directing any person to attend for public examination,

(a) the examination shall be held before the Judge; provided that the Judge may direct that the whole or any part of such examination be held before the Registrar or any other officer mentioned in sub- section (9) of the said section;

(b) the Judge may, if he thinks fit, either in the order for examination, or by any subsequent order, give directions as to the special matters on which any such person is to be examined;

(c) where an examination is held before the Registrar or other officer of the Court, such officer, may, if he is of opinion that such examination is being unduly or unnecessarily protracted, or for any other sufficient cause, adjourn the examination, or any part of the examination, to be held before the Judge.

690. (1) Application for day for holding examination - Upon an order directing a person to attend for public examination being made, the Official Liquidator shall apply for the appointment of a day on which such examination is to be held.

(2) Appointment of day for public examination - A day shall thereupon be appointed by the Registrar (Form prescribed) for holding such public examination, and notice of the day so appointed shall be given by the Official Liquidator to the person who is to be examined by sending such notice by registered post addressed to his usual or last known address (Form prescribed).

(3) Notice of public examination to creditors and contributories - The Official Liquidator shall give notice of the day appointed for holding the public examination to the creditors and contributories by advertisement in such newspapers as the Registrar may direct.

(4) Where an adjournment of the public examination has been directed, notice of the adjournment shall not be advertised, unless otherwise directed by the Court.

691. Default in attending - If any person who has been directed by the Court to attend for public examination fails to attend at the time appointed for holding or proceeding with the same, and no good cause is shown by him for such failure, or if before the day appointed for the examination, the Official Liquidator satisfies the Court that such person has absconded or that there is reason to believe that he is about to abscond with the view of avoiding examination, the Court, on being satisfied that notice of the order and of the time appointed for attendance at the public examination was duly served, may without any further notice issue a warrant (in the prescribed form) for the arrest of the person required to attend, or make such other order as the Court may deem just.

SECTION G

Proceedings against delinquent Directors, Promoters and Officers

692. Application against delinquent Directors, Officers and promoters

(1) An application under section 235 (1) or sub-section (1) or (5) of section 237 of the Act shall be made by petition to the Court. Notice of the application shall, unless otherwise ordered by the Court, be served on every person against whom an order is sought, not less than eight days before the day named in the notice for hearing the application. Where the application is made by the Official Liquidator, he may report to the Court any facts or information derived from affidavits or sworn evidence in the proceedings; where the application is made by any other person, it shall be supported by affidavit to be filed by him.

(2) The hearing of the application shall take place before the Judge in Court, and he may give such directions as he may deem necessary for the taking of evidence wholly or in part by affidavit, or orally, and the cross-examination of any deponents to affidavits in support of or in opposition to the application.

693. Use of depositions taken at public examinations - The verified notes of the deposition of any person examined under section 196 of the Act shall be admissible in evidence in any subsequent proceeding arising out of an application referred to in Rule 692 under the following circumstances and condition namely:—

(1) That it appears from the examination of the persons examined under section 196 of the Act that they or some of them had misapplied or retained or become liable or accountable for monies or property of the company or been guilty of misfeasance or breach of trust in relation to the company.

(2) That the subsequent proceeding is instituted for the purpose of examining into the conduct of such persons or any of them for instituting criminal proceedings against them or any of them or compelling repayment or restoration to the company of any monies of property or contribution by way of compensation to the assets of the company by them or any of them.

(3) That the use of such notes shall be subject to any directions of the Court as to the manner and extent in and to which they shall be used and to all just exceptions as to the admissibility in evidence against any particular person or persons of any of the statements contained in the notes.

(4) That the person against whom such notes are sought to be used was present at or had the opportunity of being present at and taking part in the examination.

(5) That the person intending to use such notes shall have, not less than fifteen days before the day appointed for hearing the application referred to in Rule 692, given notice of such intention to each person against whom it is intended to use such notes specifying the notes or parts thereof which it is intended to read against him, and furnish him with copies of such notes or parts of such notes, unless the notes be of that person's own deposition.

(6) That the person against whom the application is made shall be at liberty to cross-examine or examine, as the case may be, any person the notes of whose examination are read, in all respects as if such person had made an affidavit on the application.

SECTION H

Witnesses and Depositions

694. Committee of contumacious witnesses - (1) If a person examined before a Registrar or other officer of the Court, who has no power to commit for contempt of Court refuses to answer to the satisfaction of the Registrar or officer any question which he may allow to be put, the Registrar or such Officer shall report such refusal to the Judge and upon such report being made the person in default shall be in the same position, and be dealt with in the same manner, as if he had made default in answering before the Judge.

(2) The report shall be in writing and shall set forth the question put and the answer, if any, given by the person examined (Form prescribed).

(3) The Registrar or such officer shall, before the conclusion of the examination at which the default in answering is made, name the date and the time when the default will be reported to the Judge. If the Judge is sitting at the time when the default in answering is made, such default may be reported to him at once. Upon receiving the report the Judge may take such action thereon as he may think fit.

695. Deposition at private examination.- (1) The Official Liquidator may attend in person any examination of a witness under section 195 of the Act, on whosoever application the same has been ordered, and may take notes of the examination for his own use, and put such questions to the person examined as the Court may allow.

(2) The notes of the deposition of a person examined under section 195 of the Act, or under any order of the Court, other than the notes of the deposition of a person examined at a public examination under section 196 of the Act, shall not be filed, or be open to the inspection of any creditor, contributory or other person, except the Official Liquidator, unless and until the Court shall so direct. The Court may from time to time give such general or special direction as it may think fit as to the custody and

inspection of such notes and the furnishing of copies thereof or extracts therefrom.

SECTION I

Arrest and Commitment

696. To whom warrant may be addressed - A warrant of arrest or any other warrant issued under the provisions of the Act and these Rules, shall be addressed to the proper officer of the Court or of such other court, whether such Court has jurisdiction to wind-up a company or not, as the Court may in each case direct.

697. Prison to which arrested on warrant is to be taken - Where the Court issues a warrant for the arrest of a person under any provision of the Act or these Rules, the prison to be named in the warrant of arrest to which the person shall be committed shall, unless the court otherwise orders, be the prison to which commitments are made by the Court in the exercise of its ordinary jurisdiction.

SECTION J

Disclaimer of Property

698. Disclaimer - (1) An application by the Official Liquidator for leave to disclaim any part of the property of a company, pursuant to sub-section (1) of section 230-A of the Act, shall be by petition supported by affidavit showing who are the parties interested and what their interests are. On the hearing of the petition the Court shall give such directions as it sees fit and may adjourn the application to enable the parties interested or any of them to attend.

(2) When the Official Liquidator disclaims a leasehold interest, he shall forthwith file the disclaimer with the proceedings in Court. The disclaimer shall contain particulars of the interest disclaimed and a statement of the persons to whom notice of the disclaimer has been given. Until the disclaimer is filed by the Official Liquidator, the disclaimer shall be inoperative. A disclaimer or a notice of disclaimer shall be in the prescribed form.

(3) When any person claims to be interested in any part of the property of a company which the Official Liquidator wishes to disclaim, he shall at the request of the Official Liquidator furnish a statement of the interest so claimed by him.

699. Vesting of disclaimed property - (1) Any application under sub-section

(6) of section 230-A of the Act for an order for the vesting of any disclaimed property in or the delivery of any such property to any person shall be supported by the affidavit filed on the application for leave to disclaim such property.

(2) When such application as aforesaid relates to disclaimed property of a leasehold nature and it appears that there is any mortgage or underlease of such property, the Court may direct that notice shall be given to the mortgagee or underleasee that if he does not elect to accept and apply for such a vesting order as aforesaid, upon the terms required by the above-mentioned sub-section and imposed by the Court, within a time to be fixed by the Court and stated in the notice, he will be excluded from all interest in and security upon the property, and the court may adjourn the application for such notice to be given. If at the expiration of the time so fixed by the Court, such mortgagee or underleasee fails to make such election and application, the court may make an order vesting the property in the applicant and excluding such mortgagee or underleasee from all interest in or security upon the property.

SECTION K

Meetings of creditors and contributories in relation to a creditor's voluntary winding-up

700. Application of Rules - Subject to any directions which the Judge may give, all meetings in a voluntary winding-up shall be governed by Rules 702 to 711.

701. Application of Rules - Except and in so far as the subject matter or the context may otherwise require, Rules 663, 665, 668, 669 and 675 to 684 shall apply to meetings of creditors or contributories convened in a voluntary winding-up of a company.

702. Summoning of meetings - In any creditors' voluntary winding-up the Liquidator may from time to time summon, hold and conduct meetings of creditors for the purpose of ascertaining their wishes in all matters relating to the winding-up.

703. Notice of meeting - The Liquidator shall summon all meetings of creditors and contributories by giving not less than seven days' notice of the time and place thereof in the official Gazette and in a local news-paper; and shall, not less than seven days before the day appointed for the meeting, send by post under certificate of posting to every person appearing in the company's book to be a creditor, notice of the meeting of creditors and to every person appearing in the company's books or otherwise to be a contributory notice of the meeting of contributories. Notice to a creditor shall be sent to the address given in his proof, or, if he has not proved, to the address given in the Statement of Affairs of the company or such other address as may be known to the Liquidator. Notice to a contributory shall be sent to the address mentioned in the

company's books as the address of such contributory or to such other address as may be known to the Liquidator.

704. Proof of service of notice - An affidavit by the Liquidator that notice of a meeting has been duly posted in accordance with Rule 703 shall be sufficient evidence of such notice having been sent to the person to whom it was addressed.

705. Time and place of meetings - (1) Every meeting shall be held at such place and at such time as in the opinion of the Liquidator shall be most convenient. The cost of summoning a meeting of creditors or contributories convened by a Liquidator shall be paid by him out of the assets of the company.

(2) Different times or places may if thought expedient by the Liquidator, be appointed for the meetings of creditors and contributories respectively.

706. Chairman - The Chairman of any such meeting shall be the Liquidator or some person nominated by him for that purpose, and in the event of more than one person having been appointed Liquidators, each of them shall, if present at the meeting, be entitled to be Chairman or to nominate some other person to be Chairman in priority to the other or others of them according to the order in which they were named in the resolution by which they were appointed;

Provided that if a Liquidator shall have been appointed by the Judge in the place of a sole Liquidator appointed by the Company, the Liquidator so appointed or his nominee shall be Chairman.

707. Power of Chairman - The Chairman of the meeting shall have power to adjudicate upon the right of a creditor to vote and the amount for which he should be allowed to vote.

708. Vote of a Secured Creditor - For the purpose of voting, a secured creditor shall, unless he surrenders his security, lodge with the Liquidator, before the meeting, a statement giving the particulars of his security, the date when it was given, and the value at which he assesses it, and shall be entitled to vote in respect of the balance (if any) due to him after deducting the value of his security. The vote of a secured creditor who has not complied with this Rule shall not be counted at the meeting.

709. Liquidator prohibited from canvassing - No Liquidator shall directly or indirectly solicit or canvass any person for the purpose of obtaining votes or proxies in his favour. No person contravening this Rule shall be appointed Liquidator and any Liquidator who shall be proved to have contravened this Rule may be removed if the Judge thinks fit.

710. Proceedings not to be invalidated by non-receipt of notice -

Where a meeting of creditors or contributories is summoned by notice, the proceedings and resolutions at the meeting shall, unless the Court otherwise orders, be valid notwithstanding that one or more creditors or contributories may not have received the notice sent to them.

SECTION L

Information as to pending liquidations

711. Liquidator's statement under section 244 - Statements with respect to the proceedings in and the position of a liquidation of a company under section 244 of the Act, shall, until the winding up is completed, be filed in Court or with the Registrar of Joint Stock Companies, as the case may be, once in each year at intervals of twelve months as follows:—

(a) The first statement commencing at the date when a Liquidator was first appointed and brought down to the end of twelve months from the commencement of the winding up, shall be filed within thirty days from the expiration of such twelve months, or within such extended period as the Judge may sanction, and the subsequent statements, shall be filed at intervals of twelve months, each statement being brought down to the end of the twelve months for which it is filed.

(b) If a Liquidator resigns, he must file a statement up to the date of his resignation.

(c) Every statement shall be in the prescribed form and shall be verified by an affidavit in prescribed form.

712. Right of creditors and contributories to inspect statements filed under sections 177A and 244 of the Act -

Any creditor or contributory of a company which is being wound up shall be entitled to inspect the statement filed under section 177-A or the statement filed under section 244 of the Act on payment of a fee of three rupees and to receive a copy thereof or extract therefrom on payment of the usual charges for supplying copy.

713. Statements under sections 208 D and 209 G of the Act -

The statement to be laid before the meeting summoned under sections 208-D and 209-G of the Act shall, in the case of the first statement, be a statement similar in all respects to the first statement filed in Court or with the Registrar of Joint Stock Companies, as the case may be, under Rule 711 and subsequent statements shall be similar in form to the first statement, but shall commence at the date when the last previous statement terminated and be brought down to the end of twelve months from such date.

714. Returns under sections 208-E and 209-H(3) - The returns to be made under sub-section (3) of section 208-E and sub-section (3) of section 209-H of the Act shall be in the prescribed forms.

SECTION M

Declaration of Solvency

715. Declaration of Solvency - The declaration of solvency under section 207 of the Act shall be in the prescribed form.

Notice of Appointment of Liquidator in a Voluntary Winding up.

716. Notice of Appointment of Liquidator in a Voluntary Winding up - The notice of appointment of liquidator in a voluntary winding up to be filed with the Registrar of Companies under section 214 of the Act shall be in the prescribed form.

Unclaimed Funds and undistributed Assets in the Hands of a Liquidator in a voluntary winding up.

717. Filing of a copy of statement furnished to the officer of central Government - The Liquidator shall, when making any payment under section 244-B of the Act, file in Court a copy of the statement furnished to the officer of the Central Government in accordance with the provisions of section 244-B (2) of the Act.

718. A claim to any moneys paid in the Reserve Bank to be by petition - An application by a person claiming to be entitled to any part of the moneys paid into the Reserve Bank by a Liquidator in accordance with section 244- B of the Act shall be made by petition.

Termination of Winding up Proceedings

719. Termination of winding up proceedings - Upon the termination of the proceedings for the winding up of a company the official Liquidator shall file a final account to which in the event of there being a balance in his hands, there shall be attached a statement signed by the Official Liquidator setting out the names and last known addresses of the persons entitled to participate therein, the amount to which each is entitled and the nature of his claim thereto. Upon the passing of such account the balance in his hands (if any) shall be certified by the Judge; and upon payment by the Official Liquidator of such balance in accordance with the provisions of section 244-B of the Act, the recognizance entered into by the Official Liquidator and his sureties shall be vacated. Such certificate shall be in the prescribed form.

720. Dissolution of company - When the Official Liquidator has passed his final account, and such balance has been duly paid, the Official Liquidator shall apply to the Judge for an order that the company be dissolved. Such order shall be in the prescribed form.

721. Disposal of company's records - Upon such order being made all documents and books of account or records of the Official Liquidator shall be deposited in Court unless the Judge otherwise directs. Unless otherwise directed, the books and papers of a company which has been wound up shall be destroyed after a period of three years from the date of deposit in Court.

TRANSFER OF WINDING UP PROCEEDINGS

722. Transfer of proceedings from District Court to High Court - A Judge of the High Court may, at any stage of any proceeding under the Act pending in a District Court, for good cause shown, order such proceeding to be transferred to the High Court.

723. Applications for transfer of winding up proceedings - (1) Applications under section 164 or section 165 of the Act or under Rule 724, as the case maybe, shall be made by petition verified by affidavit. Upon the filing of such an application the Registrar shall give such orders and directions as the nature of the case may require and shall fix a date for hearing.

(2) The application may be made *ex parte*, but the Judge may adjourn consideration thereof and direct notice to be given to such person or persons as he may think fit.

724. Form of order - An order for transfer of winding up proceedings shall be in the prescribed forms, as the nature of the case may require.

SUITS AND PROCEEDING IN WHICH A COMPANY IN LIQUIDATION, BY OR UNDER THE SUPERVISION OF THE COURT, IS A PARTY

725. Suits and proceedings in which a company in liquidation, by or under the supervision of the Court, is a party - Upon the making of an order by the High Court for the winding up of a Company by or under supervision of the Court, all suits and proceedings to which the company is or shall be a party then pending, or thereafter instituted, in, or transferred to the High Court shall be assigned to and placed in the list of the Judge for the time being exercising jurisdiction under the Act in respect of such company.

Applications under Section 281 of the Act

726. Application under section 281 - An application under section 281 of the Act shall be by petition verified by an affidavit, and shall be made on notice to the company or, where the company is being wound up, to the Liquidator.

Taxation of Costs

727. Taxation of costs.- Where an order is made by the High Court for the payment of any costs, the taxation thereof shall be made by the Taxing Officer, except in cases where a sum lieu of taxed costs is fixed by the order.

728. Application of Rules to proceedings in the subordinate courts - The Rules contained in this Chapter shall, so far as may be and with necessary modifications and adaptations, also apply to proceedings under the Act in the subordinate courts.

SCHEDULE TO CHAPTER XXVIII

List of annexures to be filed with petitions

(Rule 527)

(1) Petition under section 12 of the Act for alteration of the Memorandum of Association.	(1) A true copy of the Memorandum of Association. (2) A true copy of the notice calling the meeting. (3) A true copy of the special resolution sanctioning the alteration.
(2) Petition under section 54 of the Act for sanctioning reorganization of share capital.	As in item (1),
(3) Petition under sections 55 and 56 of the Act for sanctioning reduction of share capital.	As in item (1),
(4) Petition under section 105 A of the Act for sanctioning the issue of shares at a discount.	As in item (1),

(5) Petition under section 153 of the act for sanctioning compromise.	(1) A true copy of the Memorandum of association. (2) A true copy of the compromise (3) A true copy of the resolution adopting the compromise. (4) A report of the proceedings of the meeting ordered by the court under section 153 of the act.
(6) Petition for winding-up under Section 166 of the Act.	In the case of a petition filed by the Registrar of Joint Stock Companies, a true copy of the order of Government sanctioning the filing of the petition. In the case of a petition filed by the Company, a true copy of the Special Resolution resolving that the Company be wound-up by Court.
(7) Petition under section 247 of the Act for the restoration of a company.	A true copy of the order striking out the Company's name from the register.
(8) Petition under section 267 of the Act to sanction the alteration in the form of constitution.	(1) A true copy of the deed of settlement. (2) A true copy of the proposed Memorandum and Articles of Association. (3) A true copy of the special resolution sanctioning the substitution. (4) A true copy of the notice calling the meeting.

CHAPTER XXIX

Rules under the Banking Companies Act, 1949

¹⁹⁸[**729. (1) Application relating to Banking Companies** - An application under Part III or Part III-A of the Banking Companies Act, 1949 (hereinafter in these rules referred to as “the Act”) in respect of a Banking Company having its registered office or, in the case of company incorporated outside India, its principal place of business, within the State of Rajasthan, shall be filed in the office of the Registrar, High Court.

(2) General Headings - Applications under Part III or Part III-A of the Act shall instituted in the matter of the Act and in the matter of the Banking Company and where necessary in the matter of the Act under which the Banking Company has been ordered to be wound up.

(3) Presentation and hearing of petitions under Part III or III-A of the Act - An application under Part III or Part III-A of the Act shall be made by petition and shall be signed and verified in the same manner as a plaint. The petition shall be supported by an affidavit and shall be presented to the Judge taking company winding up matters or to such other Judge as the

¹⁹⁸ : Substituted vide Rajasthan Gazette No. 35 dated 26.11.59, Part IV C, Page 952 to 961.

Chief Justice may direct. The Judge may reject the application summarily or pass such orders and give such directions as he may deem proper including directions for notice of the petition being given to such person or persons as may seem to him likely to be affected by the proceedings.

(4) Notice of petition - Where a notice is directed to be given to any party, it shall be served together with a copy of the petition and the petition shall not be heard until fourteen days after the service of the notice, unless the Judge otherwise directs.]

¹⁹⁹[**730. General duties and powers of the Special Officer** - Without prejudice to the generality of the powers of the court under section 37(3) of the Act :-

(a) A special officer appointed under section 37(3) of the Act shall furnish security in such amount as may be ordered by the court.

(b) He shall generally have all the powers and shall take all the steps to do all the things necessary or expedient to protect the rights and interests of all the creditors and share-holders of the Banking Company and to conserve and ensure the proper disposition according to law of the assets of the Banking Company.

(c) The Special Officer may be empowered to represent the Banking company in proceedings before any court, Tribunal or Public Office.

(d) The Special Officer may apply to the court for such directions as he may deem necessary.

(e) The Special Officer shall, where his duties so require, maintain proper accounts.

(f) The Special Officer shall be paid such remuneration as may be determined by the court, which shall be paid, unless the court otherwise directs, from the assets of the Banking Company.

(g) The Special Officer shall continue to supervise the affairs of the Banking Company until he is removed from office, or the term of his appointment terminates, or until the Banking Company resumes business or until a Liquidator is duly appointed to wind up the business of the Banking Company.]

²⁰⁰**731. Inspection of the report of the Reserve Bank of India** - No person, other than the parties to the proceedings and the Official Liquidator, shall be entitled to inspection of any report made by the Reserve Bank of India or be entitled to receive a copy thereof, without an order of the court.

199 : Substituted vide Rajasthan Gazette No. 35 dated 26.11.59, Part IV C, Page 952 to 961.

200 : Substituted vide Rajasthan Gazette No. 35 dated 26.11.59, Part IV C, Page 952 to 961.

²⁰¹[**732.(1) Applications in winding up to be by petition** - Applications for the determination of all questions of priorities and all other questions whatsoever, whether of law or fact, which may relate to or arise in the course of the winding up of a Banking Company, shall be made by petition. The petition shall contain a statement of facts relied on and the nature of the relief asked for. The petition shall be signed and verified in the same manner as a plaint and shall be supported by an affidavit.

(2) Notice by petition - Petitions mentioned in the last preceding ²⁰²(sub-rule) shall be presented to the Judge for the time being dealing with the proceedings for winding up of the Banking Company or to such other Judge as the Chief Justice may direct. The Judge shall direct notice of the petition to be given to the respondent or such person or persons as may seem to him likely to be affected by the proceedings. Such notice shall be served together with a copy of the petition and the petition shall not be heard until fourteen days after service of the notice, unless the Judge otherwise directs.

(3) Affidavit in answer - An answer to the petition mentioned in the ²⁰³{Sub-rule (1)} shall be made by filing an affidavit and a copy thereof shall be furnished to the petitioner or his attorney or advocate at least two clear days before the returnable date of notice.

(4) Directions for the hearing of the petitions - On the date fixed for the hearing of the petition, the court may proceed to hear the petition or give such directions as it may think proper as to discovery and inspection, examination of witnesses in court or in Chambers, taking of evidence by affidavit or otherwise and generally for the speedy determination of the petition.]

²⁰⁴[**733. (a) Transfer of suits and proceedings to the High Court.-** When the Official Liquidator submits to the court a report under section 45-C (2) of the Act, he shall apply to the Judge for the time being dealing with the proceedings for the winding up of the Banking Company or to such other Judge as the Chief Justice may direct, for directions as to the parties to whom notice may be given and the date and time for holding an enquiry whether or not the suits and proceedings mentioned in the report should be transferred to the High Court. The notice shall contain particulars of the suit or proceeding in which the party may be concerned and require him to appear and show cause why it should not be transferred to the High Court. The notice shall be served fourteen days before the date appointed for holding the inquiry.

(b) Affidavit in reply - Any party desiring to oppose the transfer of the suit or proceedings to the High Court shall file an affidavit and furnish a copy thereof to the Official Liquidator or his attorney or advocate at least two clear days before the returnable date of the notice.

201 : Substituted vide Rajasthan Gazette No. 35 dated 26.11.59, Part IV C, Page 952 to 961.

202 : Substituted vide Rajasthan Gazette No. 44 dated 2.2.61, Part IV – C, Page 623.

203 : Substituted vide Rajasthan Gazette No. 44 dated 2.2.61, Part IV – C, Page 623.

204 : Substituted vide Rajasthan Gazette No. 35 dated 26.11.59, Part IV C, Page 952 to 961.

(c) When proceedings not transferred, Court may request expedition of the same - If any proceeding pending in any court is not transferred to the High Court under section 45-C (3) the Judge for the time being dealing with the proceedings for the winding up of the Banking Company or such other Judge as the Chief Justice may direct, may issue directions to the Registrar to write a letter of request to the court in which the proceeding is pending, requesting that the proceeding may be disposed of as expeditiously as possible.]

²⁰⁵ & ²⁰⁶ **[734. (a) List of Debtors** - When the Official Liquidator files in the court a list of debtors under section 45-D (2) of the Act, he shall obtain an appointment from the Judge for the time being dealing with the proceedings for the winding up of the Banking Company or from such other Judge as the Chief Justice may direct, to settle the same and shall give notice in writing of such appointment to every person mentioned in such list. The notice shall contain such of the particulars mentioned in the list of debtors as are applicable to such person. In case any variation or addition to such list is made by the Official Liquidator, a similar notice in writing shall be given to every person to whom such variation or addition applies. All such notices shall be served four weeks before the date appointed to settle such list, variation or addition.

(b) Service of notice - Service of notice upon the debtor shall be effected by sending the notice through the post by a Registered letter or if the Judge so directs under certificate of posting. The notice shall be addressed to the party to his last known address or place of abode and such notice shall be considered as served at the time the same ought to be delivered in due course of delivery by the Post Office and notwithstanding the same may be returned by the Post Office.

(c) Affidavit in reply - If the debtor desires to show cause against the inclusion of his name in the list of debtors, he shall file an affidavit and furnish a copy thereof to the official Liquidator or his attorney or advocate at least seven days before the day appointed for the settlement of the list.

(d) Settlement of the list of debtors - On the date fixed for settlement of the list of debtors the court may settle the list or such part thereof as it may think proper. If the court is of opinion that it is not immediately possible to adjudicate upon any particular debt mentioned in the list, it may give such directions as it may think proper as to discovery and inspection, examination of witnesses in Court or in Chambers, taking of evidence by affidavit or otherwise and generally for the speedy adjudication of the debt. The Court may in a special case refer the Official Liquidator to a regular suit.]

205 : Deleted Rule 734 then Renumbered Rule 736 as Rule 734 vide Raj. Gaz. No. 30/17 dt 21.2.57 Pt IV-C at P.864 to 868

206 : Substituted vide Rajasthan Gazette No. 35 dated 26.11.59, Part IV C, Page 952 to 961.

²⁰⁷&²⁰⁸**735. Official Liquidator to report if he contests claims of depositors** - If the Official Liquidator desires to contest a claim shown in the books of the company as due to a depositor on the ground that there is reason for doubting the correctness of any particular entry in the books he shall make a report to the Judge for the time being dealing with the proceedings for the winding up of the Banking Company or to such other Judge as the Chief Justice may direct, stating his reasons for doubting the correctness of such entry; and if, upon such report the Court is satisfied that there is prima facie reason notice to be given to the depositor concerned to come in and prove his claim.

²⁰⁹& ²¹⁰**[736. (a) Register of suits in Winding up matters** - Suits in respect of claims made by or against any Banking Company in Liquidation including claims by or against any of its branches in India which are filed in the High Court or transferred to it under the Act shall be entered in a separate list to be maintained by the office of the Registrar and shall be treated as expedited suits. If such suits have been filed before the date of the order for winding up, the Official Liquidator shall furnish to the Registrar a list of such suits.

(b) Hearing of suits and matters - All suits referred to in the preceding ²¹¹(sub-rule) and all matters and proceedings connected with the suits shall be heard by the Judge for the time being dealing with the proceedings for the winding up for the Banking Company or by such other Judge as the Chief Justice may direct.

(c) Procedure in such suits - Where the suit is filed as a summary suit, the procedure prescribed for summary suits shall be followed. In all other cases, the suits shall be filed as a long cause and the following procedure shall be followed :-

Within ten days of the service of the writ of summons or such longer period as the Judge may direct on the application of the plaintiff in that behalf, the plaintiff shall take out a summons for directions and the Judge shall give such directions as he may think proper as to filing the written statement and counter claim if any, or points of defence, discovery, inspection examination of witnesses in Court or in Chambers, taking of evidence by affidavit or otherwise and generally for the speedy determination of the suit.]

²¹²& ²¹³**737. Application for inspection of records** - The Reserve Bank of India may apply to the Judge for the time being dealing with the proceedings for the winding up of a Banking Company or to such other Judge as the Chief

²⁰⁷ :Deleted Rule 734 then Renumbered Rule 736 as Rule 734 vide Raj. Gaz. No. 30/17 dt 21.2.57 Pt IV-C at P.864 to 868

²⁰⁸ :Substituted vide Rajasthan Gazette No. 35 dated 26.11.59, Part IV C, Page 952 to 961.

²⁰⁹ : Renumbered (due to Renumbered Rule 736 as 734 – so Rule 736 is nil – then Renumbered Rule 738 as 736) vide Rajasthan Gazette No. 30/17 dated 21.2.57 Part IV-C at Page 864 to 868

²¹⁰ :Substituted vide Rajasthan Gazette No. 35 dated 26.11.59, Part IV C, Page 952 to 961.

²¹¹ :Substituted vide Rajasthan Gazette No. 44 dated 2.2.61 Part IV – C, Page 623.

²¹² :Inserted (due to Renumb. Rule 737 as 735 - So Rule 737 is NIL - then New Rule inserted as 737) vide Raj. Gaz. No. 30/17 dt 21.2.57 Part IV-C at Page 864 to 868.

²¹³ :Substituted vide Rajasthan Gazette No. 35 dated 26.11.59, Part IV C, Page 952 to 961.

Justice may direct, for permission to inspect the records of the Banking Company or of the High Court in the matter of the Banking Company, and such permission may be granted by the Judge in his discretion.

²¹⁴&²¹⁵**738. Recovery of dues as arrears of revenue** - When the Court grants leave under section 45-T (3) of the Act for recovery of any amount found due to the Company, the Official Liquidator may apply to the proper Revenue Authorities to recover the said amount as an arrear of land revenue.

²¹⁶& ²¹⁷&²¹⁸**739.** (Deleted).

²¹⁹&²²⁰**740. Rules under Chapter XXVIII to apply unless inconsistent** - These rules shall be in addition to and not in derogation of rules under Chapter XXVIII of the Rules of the High Court, 1952. In case of inconsistency these rules shall prevail.

CIVIL APPEALS

²²¹&²²²**[741. (1) Appeal to the High Court to be heard by Division Court -**

(a) Subject to the provisions of Section 45-N(1) of the Act, an appeal shall lie from an order or decision of a Judge in a civil proceeding under the Act to the High Court.

(b) The appeal shall be heard by a Division Court consisting of two Judges or more than two Judges if the Chief Justice so directs, other than the Judge whose decision is appealed from.

(2) Period within which appeal should be filed - The appeal shall be filed within 20 days from the date of the decree or order appealed from.

(3) Appeals - Rules relating to appeals contained in Part II, except Chapter XV of the Rules of the High Court, 1952, shall apply, mutatis mutandis, to appeals under Section 45-N (1) of the Act.]

CRIMINAL COMPLAINTS

214 : Renumbered (due to Renumbered Rule 738 as 736 — So Rule 738 is NIL -then Renumbered Rule 741 as Rule 738) vide Raj. Gaz. No. 30/17 dt 21.2.57 Part IV-C at Page 864 to 868

215 : Substituted vide Rajasthan Gazette No. 35 dated 26.11.59, Part IV C, Page 952 to 961.

216 : Renumbered (Deleted Rule 739 then Renumbered Rule 742 as 739) vide Raj. Gaz. No. 30/17 dt 21.2.57 Pt IV-C at Pg 864 to 868

217 : Substituted vide Rajasthan Gazette No. 35 dated 26.11.59, Part IV C, Page 952 to 961.

218 : Substituted vide Raj. Gaz. No. 35 dt 26.11.59, Part IV C, Pg 952 to 961 - then Deleted vide Raj. Gaz. No. 44 dt 2.2.61 Pt V – C, Pg 623.

219 : Renumbered (Deleted Rule 740 & Renumbered Rule 743 as 740) vide Raj. Gaz. No. 30/17 dt 21.2.57 Part IV-C at Pg 864 to 868

220 : Substituted vide Rajasthan Gazette No. 35 dated 26.11.59, Part IV C, Page 952 to 961.

221 :Inserted (due to Renumbered Rule 741 as 738 - So Rule 741 is NIL - then New Rule inserted as 741.) vide Raj. Gaz. No. 30/17 dt 21.2.57 Pt IV-C Pg 864 to 868.

222 :Substituted vide Rajasthan Gazette No. 35 dated 26.11.59, Part IV C, Page 952 to 961.

²²³&²²⁴[**742. (1) Presentation of complaints and issue of process -** Proceedings under section 45-J of the Act shall commence with a complaint being presented by the Official Liquidator such Judge as the Chief Justice may direct. On presentation of the complain the Judge may issue a summons or a bailable or non-bailable warrant against the accused and shall fix a date for the trial, or may, if he thinks fit postpone the issue of process for compelling the attendance of the person complained against and may direct an inquiry or investigation to be made by the Superintendent of Police or by such other person as he thinks fit, or may dismiss the complaint as he may in his discretion think fit.

(2) Process in Criminal cases - All complaints shall be filed in the office of the Registrar and all process shall issue from his office.

(3) What offences to be tried summarily - ²²⁵{All offences punishable under the Act or under the Indian Companies Act, 1913 or under the Companies Act, 1956, may be tried summarily provided they are punishable with imprisonment not exceeding three years with or without fine.}

(4) (a) Procedure in summary trials - Where an offence triable under section 45-J (1) is tried summarily, the procedure provided in the Code of Criminal Procedure for the trial of summons cases shall, so far as it is not inconsistent with the provisions of the Act, be applicable. Where, however, the offence to be tried summarily under Section 45-J (1) is tried jointly with an offence under Section 45-J (2) the procedure provided in the Code of Criminal Procedure for the trial of warrant cases shall be applicable provided that it shall not be necessary to adjourn the case under Section 256 (1) of the Code of Criminal Procedure before requiring the accused to enter upon his defence or inquiring of him whether he wishes to further cross-examine any witness whose evidence has been taken.

(b) Procedure in non-summary trials - Where the offences triable under Section 45-J are not tried summarily, the procedure provided in the Code of Criminal Procedure for the trial of warrant cases shall, so far as it is not inconsistent with the provisions of the Act, be applicable.

(5) Bail - The court may at any time grant bail to the accused on such terms as it thinks proper.

(6) Accused person to be competent witness - Any person against whom a complaint is filed by the Official Liquidator under the Act shall be a competent witness for the defence and may give evidence on oath in disproof of the charges made against him or any person charged together with him at the same trial : provided that -

(a) he shall not be called or examined as a witness except with his consent;

223 : Inserted (due to Renumbered Rule 742 as 739 - So Rule 742 is NIL - then New Rule inserted as 742) vide Rajasthan Gazette No. 30/17 dated 21.2.57 Part IV-C at Page 864 to 868

224 : Substituted vide Rajasthan Gazette No. 35 dated 26.11.59, Part IV C, Page 952 to 961.

225 :Substituted vide Rajasthan Gazette No. 44 dated 2.2.61 Part IV – C, Page 623.

(b) His failure to give evidence shall not be made the subject of any comment by the prosecution or give rise to any presumption against himself or any person charged together with him at the same trial ;

(c) he shall not be asked, and if asked shall not be required to answer, any question tending to show that he has committed or been convicted of any offence other than the offence with which he is charged, or is of bad character, unless -

(i) the proof that he has committed or been convicted of such offence is admissible evidence to show that he is guilty of the offence with which he is charged, or

(ii) he has personally or by his Advocate asked questions of any witness for the prosecution with a view to establish his own good character, or has given evidence of his good character or the nature or conduct of the defence is such as to involve imputations on character of the Prosecutor or of any witness for the prosecution or

(iii) he has given evidence against any other person charged with the same offence.

(7) Compounding of offences - All offences triable under Part III-A of the Act may be compounded with the leave of the court.]

CRIMINAL APPEALS

²²⁶&²²⁷[**743. (a) Appeal against conviction** - Any person convicted on a trial held by a single Judge of the High Court under Section 45-J of the Act may appeal to the Division Bench :-

(i) against the conviction on any ground of appeal which involves a matter of law only.

(ii) With the leave of the Appellate Court or upon the certificate of the Judge who tried the case that it is a fit case for appeal, against the conviction on any ground of appeal which involves a matter of fact only or a matter of mixed law and fact, or any other ground which appears to the Appellate Court to be a sufficient ground of appeal ; and

(iii) With the leave of the Appellate Court, against the sentence passed unless the sentence is one fixed by law.

(b) Appeal against acquittal - The Official Liquidator may appeal to the High Court against any order of acquittal on any ground of appeal which involves a matter of law only.

226 : Inserted (due to Renumbered Rule 743 as 740 - So Rule 743 is NIL - then New Rule inserted as 743) vide Rajasthan Gazette No. 30/17 dated 21.2.57 Part IV-C at Page 864 to 868

227 :Substituted vide Rajasthan Gazette No. 35 dated 26.11.59, Part IV C, Page 952 to 961.

(c) Period of limitation - An appeal under the preceding sub-rules shall be filed within 30 days from the date of the order appealed from.

(d) Application to the trial Judge for a certificate - An application to the Judge who tried the case for a certificate that it is a fit case for appeal may be made either orally at the end of the trial or by petition giving the grounds on which such certificate is sought and showing that the period of limitation for the appeal has not expired.

(e) Appeals to be filed with the Registrar - Appeals shall be filed in the office of the Registrar.

(f) Memorandum of appeal - The memorandum of appeal shall be made in the form of a petition giving the grounds of objection numbered consecutively, and the grounds upon which the leave, if any, of the Appellate Court is sought. It shall also show that the appeal is within time, and shall be accompanied by a certified copy of the judgment and the sentence or order of the court, and also of the certificate of the Judge who tried the case that it is a fit case for appeal, when such certificate has been given.

(g) Procedure in appeals - On presentation of an appeal, the date of such presentation shall be marked thereon, and it shall be accepted if within time, and placed on a register of appeals to be kept for the purpose. When an appeal appears to the Registrar to be beyond time, it shall be returned to the party or his advocate, unless the party or his advocate applies for it to be placed before the Court for orders. An application for excusing the delay in presenting the appeal may be made to the Registrar within a fortnight of the date of such return, and such application shall be placed before the Court for orders.]

²²⁸&²²⁹**744. (a) Admission of appeals** - *Applications referred to in* ²³⁰(Sub-rule (g) of rule 743), together with the memoranda of appeal in question and appeals which have been accepted by the Registrar being within time shall be placed for admission before a Division Bench constituted by the Chief Justice and composed of not less than 2 Judges, being Judges other than the Judges by whom the original trial was held.

(b) Application for bail in appeal - Applications for bail shall ordinarily be made to the Appellate Court at the time of admission.

(c) Application for notes of evidence - Upon admission of an appeal, the appellant shall apply with due diligence for a certified copy of the notes of evidence and of the requisite documentary exhibits, and shall pay the usual charges, unless the Registrar in his discretion thinks fit to dispense with such payment in whole or in part. Certified copies of the notes of evidence or of the documentary exhibits shall not be supplied before admission of an appeal except with the leave of the trial Judge.

228 : Deleted then Substituted vide Rajasthan Gazette No. 30/17 dated 21.2.57 Part IV-C at Page 864 to 868

229 :Substituted vide Rajasthan Gazette No. 35 dated 26.11.59, Part IV C, Page 952 to 961.

230 :Substituted vide Rajasthan Gazette No.44 dt 2.2.61 Pt IV-C, Page 623.

(d) Paper books to be prepared by appellant - Appeal paper books shall be prepared by the appellant and shall be printed except where such printing is dispensed with by the Appellate Court in which case the appeal paper books shall be type-written.

(e) Contents of paper books - The appeal paper book shall contain the following papers arranged in two parts in the same volume where practicable in the following order:-

Part I :-

- (1) Complaint.
- (2) Charge or charges against the accused in trial court.
- (3) Notes of evidence including statement of the accused.
- (4) Judgment including sentence or order.
- (5) Certificate of the Judge who tried the case, if any.
- (6) Order of the Appellate Court granting leave, if any.
- (7) Memorandum of Appeal.
- (8) Order admitting the appeal.
- (9) Such other papers as may be deemed necessary by the Registrar.

Part II :- Exhibits.

(f) Filing of paper books - Within six weeks of the admission of an appeal except where the time has been extended by the court, the appellant shall file two or more copies of the appeal paper book as may be required by the Registrar in his office and shall also furnish two copies to the respondent.

(g) Hearing of appeals - After the appeal paper books have been filed, the appeal shall be set down for hearing and final disposal before a Division Bench constituted by the Chief Justice and composed of not less than 2 Judges, being Judges other than the Judge by whom the original trial was held.

(h) Procedure on default of filing of paper books - Where the appellant, after admission of an appeal, does not diligently prosecute the appeal and does not file copies of the appeal paper book as required, the appeal shall be placed before the Appellate Court for dismissal. The Appellate Court may dismiss the appeal or pass such order as it may think fit.

MISCELLANEOUS

²³¹&²³²**745. (1) Section 5, Limitation Act applicable** - The provisions of Section 5 of the Indian Limitation Act shall apply to appeals-Civil or Criminal under the Act.

231 : Deleted then Substituted vide Rajasthan Gazette No. 30/17 dated 21.2.57 Part IV-C at Page 864 to 868

232 : Substituted vide Rajasthan Gazette No. 35 dated 26.11.59, Part IV C, Page 952 to 961.

(2) Code of Civil Procedure, Code of Criminal Procedure & High Court Rules to apply - The provisions of the Code of Civil Procedure, the Code of Criminal Procedure and the Rules of the High Court, 1952, unless inconsistent with these rules shall apply mutatis mutandis to Civil and Criminal Proceedings and appeals under these rules.

²³³**[CHAPTER XXIX-A**

Rules in regard to election petitions under the Representation of the Peoples Act, 1951.

745-A. In these rules, unless the context otherwise requires,-

- (a) "the Act" shall mean the Representation of the People Act, 1951;
- (b) "the Code" shall mean the Code of Civil Procedure, 1908;
- (c) "the High Court" shall mean the High Court of Judicature for Rajasthan;
- (d) "The Judge" shall mean the Judge or Judges of the High Court of Judicature for Rajasthan who has or have been assigned by the Chief Justice under sub-section (2) of section 80 A of the Representation of the Peoples Act, 1951, for the trial of election petitions.

The Election Petition

745-B. All proceedings in the High Court in respect of election petitions shall be conducted in English.

745-C. All petitions, applications, notes etc. including copies thereof to be filed in election petitions shall be either printed, or type-written neatly and legibly with sufficient space between lines on strong and durable foolscap size paper or on a size of paper nearest to the foolscap size according to metric measure, with a margin of not less than 5 cms. Where such petitions, etc., as aforesaid consist of more sheets than one, they shall be stitched in book-form.

745-D. Election petitions shall be presented, either in person or by an advocate duly authorised in this behalf by the party concerned, to the Registrar of the High Court or to such other officer as the said Registrar may, with the approval of the Chief Justice, by special or general orders passed from time to time, appoint in this behalf.

233 :Incorporated vide Rajasthan Gazette , E.O. Dated 3.4.67 Part IV C, Pgs 1 to 9.

745-E. Every election petition shall, in addition to the contents required by the Act, contain information as to the date of election of the returned candidate or if there be more than one returned candidate at the election and the dates of their election are different, the later of the two dates and shall also show that the election petition is within time as prescribed in section 81 of the Act.

745-F. The election petition along with the necessary copies may be presented at any time during the Court hours. Immediately after it is presented, the date of presentation shall be endorsed thereon, and the petition shall be entered in a special register maintained for the registration of election petitions. The register shall be in Form No. 32 prescribed under rule 330 of the General Rules Civil, with necessary modifications. Information about presentation of the election petition shall be sent to the Election Commission forthwith.

745-G. After the petition is presented, the party or Advocate shall attend the office on the third day from the date of the presentation or any other date, fixed by the Registrar, to remove objections, if any. The petitioner shall furnish his address (preferably in Jodhpur) where any communication may be addressed to or served on him.

745-H. The office shall examine the petition with a view to see whether it is in conformity with the requirements of law and the rules applicable to the same, and if it is not in conformity with law and the rules, raise objections which could be removed by the party or the advocate concerned. These objections should be brought to the notice of the party or the advocate on the date fixed for attendance under rule 7 and such objections shall be removed, subject to the orders of the Judge, if any, within two days thereafter.

745-I. Immediately after the time fixed for the removal of objection the petition shall be placed before the Judge for such orders as may be required to be passed under section 86 of the Act. If the petition is not dismissed under section 86(1) of the Act, a summons, on the direction of the Judge, shall be issued to the respondents to appear before the High Court on a fixed date and answer the claim or claims made in the petition. Such date shall not be earlier than three weeks from the date of the issue of the summons. The summons shall be for written statement and settlement of issues and shall be served on the respondents through the District Judges in the manner provided for the service of summons. The District Judges will make their best endeavour to serve the summons on the respondents and make a return of the service of the summons with the greatest expedition.

745-J. In addition to the issue of summons as aforesaid, a summons shall also be sent to the respondent to the address given by the petitioner by registered post pre-paid for acknowledgement. The petitioner shall furnish extra copies of the petition to be served along with the summons by registered post. The acknowledgement purporting to be signed by the opposite party or an

endorsement by a postal servant when the opposite party refuses service, shall be deemed to be prima facie proof of the service.

745-K. Those of the respondents who file written statements of recriminatory statements as provided under section 97(2) of the Act shall also furnish copies of such written statements and recriminatory statements for the use of the petitioner and other respondents, as the case may be. Where a recriminatory statement under section 97(2) alleges any corrupt practice, the statement shall be accompanied by an affidavit in support of the allegation of such corrupt practice and the particulars thereof.

745-L. After the pleadings in the election petition are received, a date shall be fixed, at the direction of the Judge, for (1) discovery of documents, (2) inspection of the documents disclosed, and (3) the production of documents which are in the possession and power of the parties.

745-M. Issues will then be settled and the election petition will be posted for hearing. Within seven days of the settlement of issues, parties shall file a list of witnesses and pay the process-fees and the travelling allowance and the diet allowance for those of them who are required to be summoned. No party shall produce or obtain process to enforce the attendance of witnesses other than those contained in the above lists :

Provided that it will be in the discretion of the Judge to allow a party to produce witness in rebuttal not included in the list, on such terms as he may deem fit to impose, if there are sufficient reasons to do so.

745-N. Parties shall apply for the issue of witness- summons sufficiently in time for the attendance of witnesses after service. Parties may also produce witnesses without a summons on the date of the hearing, provided they have filed a list of the same as required under Rule 13.

745-O. Process-fees to be paid shall be the same as provided in rule 840 of the Rajasthan High Court Rules, 1952.

745-P. A party applying for a summons to a witness shall be required to deposit at the time of applying for summons a sum sufficient to cover the travelling allowance and the diet allowance of the witness according to the scale given under Rule 17. Payment shall be made to the witness out of amounts so deposited after the witness has given evidence or he is discharged by the Judge.

745-Q. Travelling allowance for the journey from the place of residence to the place where evidence is required to be given and back to the place of residence and diet allowance shall be paid to the witnesses according to the scale indicated below:-

Rule 745-Q table

Class of witness	Travelling allowance	Diet allowance
Class I Professional men of high position, members of Parliament and of the State Legislature, large land owners and owners of big business organisations; and Class I Government officials who are required to attend the Court in their private capacity.	First Class Rail Fare	Rs. 20/- per day
Class II Members of Local Bodies, ordinary professional and business men, land owners, other than small farmers, officer employees in business organisations, Corporations and local bodies and Class II Government officials who are required to attend the Court in their private capacity.	Second Class rail fare (or first class rail fare if admissible under the State Service Rules for journey on duty).	Rs. 12/- per day
Class III Artisans, clerks, small land owners, village officers, and employees in lower grades of Corporations, local bodies and business organisations and Class III Government servants who are required to attend the Court in their private capacity.	Second Class rail fare	Rs. 8/- per day
Class IV Labourers, petty shop-keepers, pedlars and persons other than those in the above classes and Class IV Governments servants who are required to attend the Court in their private capacity.	Third Class rail fare	Rs. 4/- per day.

Note 1:- If in addition to travelling by rail a witness is required to travel by bus, also the actual bus fare paid for such part of the journey shall also be admissible as travelling allowance.

Note 2:- Diet allowance shall be payable, irrespective of the distance travelled, for the actual time required for the journey each way and also for the time taken in giving evidence and for the time of detention necessary for the purpose of giving evidence. A part of the day shall be counted as equal to a day.

Note 3:- The Registrar shall decide to which Class a witness belongs. A witness dissatisfied by his decision may request that a reference be made to the Judge and upon such request the question shall be referred to the Judge. The Judge thereupon shall give such direction, as he thinks just and proper in the case.

Note 4:- In the case of Experts and professional persons and in cases in which the Judge thinks special rates should be awarded, the Judge may award higher rates on diet allowance than provided for in this scale.

Note 5 :- In cases not fully or clearly covered by this scale or in cases where the Judge thinks special consideration should prevail, the Judge shall award such amounts for travelling allowance, and diet allowance, as he deems proper.

745-R. As soon as an order is passed by the Court under sub-section (2) of section 109, or under clause (b) of sub-section (3) of section 110, or under sub-section (2) of section 112, or under section 116 directing any matter to be published in the Official Gazette, or otherwise than in the Official Gazette, the office shall get the same published at the cost of such of the parties as the Judge may direct in that behalf. The matter directed to be published in the Official Gazette shall be published in the State Government Gazette or the Gazette of India, as the case may be.

745-S. As soon as an election petition is dismissed by the High Court under sub-section (1) of section 86, or the same has been finally disposed of on merits as provided for under sections 98 and 99, or the High Court passes an order under sub-section (1) of section 116-B, the office shall intimate the order or the decision of the High Court (i) to the Election Commission and (ii) the Speaker or the Chairman, as the case may be, of the Houses of Parliament or of the State Legislature concerned; and thereafter, as soon as possible, it shall also forward to the Election Commission an authenticated copy of the judgment and the formal order of the Court. The office shall also report to the Election Commission when an election petition is allowed to be withdrawn under section 111 after orders are passed in that behalf by the High Court. Where an election petition abates and no attempt has been made for substituting another person for continuing the said petition as provided under section 116, and the Court passes a final order treating the petition as abated, the office shall also report to the Election Commission.

745-T. A diary or index of proceedings showing the course of the election petition from the beginning to the end in chronological order shall be maintained in each election petition in accordance with rules 69 and 70 of the Rajasthan High Court Rules.

Applications in the Petition

745-U. All applications in each election petition shall be separately recorded in a register maintained for the purpose. The register in respect of each election petition shall have the following columns:-

Register of Applications

Election Petition No.

Rule 745-U table

Serial No. of Application in	Date of presentation	Nature of application	Date and substances of final order
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When an application is filed, the same shall be placed before the Judge as part of the election petition for passing necessary orders.

745-V. Applications made to the Court in a pending election petition shall be styled as “Application in the election petition No.....”

Advocates

745-W. (a) An advocate intending to act for a party shall file a Vakalatnama signed by that party.

(b) All notices, processes, etc. shall be served on the advocate at the office address given by him, unless the Judge otherwise, directs, such service will be regarded as proper service on the party.

745-X. A party shall be entitled to advocate's fees at the rate of Rs. 150/- per day of hearing, if represented by more than one advocate, and at the rate of Rs. 100/- if represented by one advocate, subject, however, to the discretion of the Judge to allow a higher or lower rate of fees.

Provided that the total advocate's fees shall not exceed Rs. 2,000/-: ...

Provided further that no fees would be taxable unless a certificate of receipt of fees is filed before commencement of final arguments.

Costs

745-Y. (a) The security for costs shall be paid in cash. The payment shall be made by means of a printed tender form in triplicate duly filled in English by the payer. The payer shall present the form to the Registrar between the hours of 10-30 A.M. And 11-30 A.M. (or when the Court is observing morning hours, between 7.30 A.M. and 8-30 A.M.).

The Registrar shall put his signatures on the tender form, shall get the tender entered in the register of tenders and sign the order to receive payment of the duplicate and triplicate forms of the tender. Thereafter cash challan (Form No. GA. 57) shall be filled in duplicate by the Superintendent, Accounts Section, and handed over to the payer for presentation and payment of the money to the State Bank of India, Jodhpur. On presentation of the challan and on payment of the money in the Bank, the payer shall receive as an acknowledgement one of the forms of challan duly signed and the other form shall be retained by the Bank as a voucher. The payer shall present the challan given by the Bank to the Superintendent, Accounts Section, who shall make necessary entries in the tender form. The original tender shall be filed with the record of the election petition, the duplicate tender shall be given to the payer, and the triplicate tender shall kept in the Accounts Section.

(b) Where, pending the trial of the election petition, a petitioner is directed to give further security for costs, the amounts of such further costs shall be similarly deposited in the Bank.

(c) The amount deposited shall be credited to the head "Civil Court Deposits." ...

Miscellaneous

745-Z. No document in any language other than English shall be admitted in evidence unless it is accompanied by an English translation which shall either be the official translation or a translation, the accuracy of which is certified by an advocate of the High Court. Costs of the translation shall be at the discretion of the Court.

745-Z (1). All rules of the High Court applicable to the preparation of the transcript of the record for the use of the Supreme Court in a appeal to that Court arising from a decree of the High Court in a Civil Appeal shall apply mutatis mutandis to the preparation of transcript of the record for use of the Supreme Court in an election petition, subject, however, to the provisions of the Act and the rules which the Supreme Court may make in that behalf.

(2) Where no specific provision is made in the Act, the Code or the above Rules, the Rajasthan High Court Rules, 1952 shall apply mutatis mutandis or as the Judge may direct.]

CHAPTER XXX
Testamentary and Intestate Jurisdiction

SECTION A
Preliminary

746. Definitions - In this chapter unless the context otherwise requires—

- (i) "The Act" means the Indian Succession Act, 1925; (Act of 1925).
- (ii) "Will" includes a council.

747. General Headings and Forms - The following shall be used as general headings in all cases under the Act or this chapter;

IN THE HIGH COURT OF JUDICATURE AT JODHPUR/JAIPUR BENCH.

TESTAMENTARY AND INTESTATE JURISDICTION.

TESTAMENTARY CASE/SUIT No. of 19.

In the matter of the goods of.....deceased.

SECTION B

NON-CONTENTIOUS BUSINESS

748. Non-contentious business - Non-contentious business shall include the business of obtaining probate and letters of administration (with or without the will annexed, and whether general, special or limited) where there is no contention as to the right thereto, or where there has been contention, the contest is terminated, and all exparte business to be taken in the Court in matters of testacy and intestacy, not being proceedings in any suit, and also the business of lodging caveats against the grant of probate or letters of administration.

749. Notice to Board of Revenue - The Registrar shall give notice of every application for probate or letters of administration to the Board of Revenue within one week of the filing of the application.

750. Application for probate - An application for probate shall be made by petition with the will annexed, accompanied if the will is not in English or Hindi, with an official translation thereof in English, and such application shall contain an undertaking that an inventory and account will be filed within six and twelve months respectively after the date of issue of the probate. The petition shall be in the prescribed form or as near thereto as the circumstances of the case may permit and shall be accompanied by—

(a) an affidavit of one of the attesting witnesses, if procurable (form prescribed); and

(b) an affidavit of valuation in the form set forth in Schedule III to the Court Fees Act, 1870, as adapted to Rajasthan.

751. Application for letters of Administration - An application for letters of Administration shall be made by petition in the prescribed form or as near thereto as the circumstances of the case may permit and shall be accompanied by annexure (b) mentioned in the last preceding Rule.

752. Application for Letters of Administration with will annexed - An application for Letters of Administration with the will annexed shall be made by petition in the prescribed form or as near thereto as the circumstances of the case may permit. It shall set out the names and addresses of the Legal representatives of the deceased (unless the Court sees fit to dispense with the statement thereof), and shall be accompanied by the annexures referred to in Rule 751.

753. Certificate that no other grant has been made - Within fourteen days of the filing of an application for probate or letters of administration the Registrar shall certify (if such can be the case) that no intimation has been received by the Court from any other High Court or any District Court, of any grant of probate or of letters of administration of the property and credits of the deceased having effect throughout the territory of India.

Such certificate shall be made on the order sheet and shall be in the prescribed form.

754. Certificate as to Court fee - No order for the issue of a grant of probate or letters of administration shall be made until after the Registrar has certified either that the court-fee payable on the grant has been paid or that no court-fee is payable. Such certificate shall be made on the order sheet and shall be in one of the prescribed forms.

755. Proof of identity - The Judge may, in cases where he deems it necessary, require proof, in addition to the usual statement required to be made in the petition, of the identity of the deceased or of the party applying for the grant.

756. Interlineations, alterations, etc. in the will to be sworn to by the attesting witnesses - When interlineations, alterations, erasure or obliterations appear in the will (unless duly executed as required by the Act or recited in or otherwise identified by the attestation clause) a statement shall, if possible, be made in the affidavit of the attesting witness whether they existed in the will before its execution or not.

757. In absence of attesting witnesses what other evidence must be produced - If no affidavit by any of the attesting witnesses is procurable, an affidavit shall be procured (if of attesting possible) from some other person (if any) who may have been present at the execution of the will; but if no affidavit of any such person can be obtained, evidence on affidavit must be procured of that fact and of the handwriting of the deceased and one attesting witness, and also of any circumstances which may raise a presumption of favour in due execution.

758. Attempted cancellation must be accounted for.- Any appearance of an attempted cancellation of a testamentary writing by burning, tearing, obliteration or otherwise, and every circumstance leading to a presumption of abandonment or revocation of such writing or part thereof, must be accounted for.

759. Unsigned or unattested will - In cases in which it is not necessary that a will should be signed by the testator or attested by witnesses to constitute a valid testamentary disposition of the testator's property, the testator's intention that it should operate as his testamentary disposition must be clearly proved by affidavit.

760. Renunciation - No person, who renounces probate of a will or letters of administration of the property of a deceased person in one character, shall, without the leave of Judge, take out representation to the same deceased in another character.

761. Application for administration by creditor - In all applications by a creditor for letters of administration, it shall be stated particularly how the debt or debts arose, the amount due on the date of the application, and whether the applicant has any and what security therefore.

762. Production of deed paper, etc. referred to in will - If a will contains a reference to any paper, memorandum, or other document of such a nature as to raise a question whether it ought not to form a constituent part of the will, such paper, memorandum or other document should be produced with a view to ascertain whether it is entitled to probate, and where not produced, its non- production must be accounted for.

763. Persons consenting to an application for letters of administration shall do so on affidavit - Persons desiring to give their consent to an application for letters of administration shall do so on affidavit, stating their relationship to the deceased and that they consent to the grant of letters of administration to the petitioner.

764. Citation to rightful parties - On an application for letters of administration, unless otherwise ordered by the Judge or Registrar, a citation shall issue to all persons having a right to take the grant prior or equal to that of the applicant, unless such persons have signed their consent to the application.

765. Citation on application by creditor - Where letters of administration are applied for by a creditor, a special citation shall be issued to the widow, if any, and to the next-of-kin, provided they shall be resident within the jurisdiction or have any known agent or agents resident within the jurisdiction, and to the Administrator General of Rajasthan, and a general citation shall be issued to all persons claiming to have any interest in the estate of the deceased.

766. Citations - All citations shall, unless otherwise ordered, direct the persons cited to show cause on such day certain as the Judge shall direct and shall be in the prescribed form and, where they cannot be served in the manner provided for service of process, may be served by the insertion as an advertisement in such newspapers as may be directed, of a notice in the prescribed form.

767. Proof of publication - Proof of due publication of a citation by advertisement shall be by affidavit, unless the Judge or Registrar has directed that such citation be published once only in a single newspaper in which case a copy of the issue of the newspaper containing the said advertisement may be filed in lieu of an affidavit. The affidavit shall be in the prescribed form or as near thereto as circumstances permit.

768. Proof of power of attorney - Unless a power-of-attorney constituting such attorney as the attorney of an executor absent from the State of Rajasthan can under section 85 of the Indian Evidence Act, 1872, be presumed to have been executed and authenticated as in the said section mentioned, the Court may require further proof of its due execution.

769. Grant when to have effect in Rajasthan - All grants of probate or letters of administration (with or without the will annexed) other than grants under the Administrator-General's Act shall, unless otherwise ordered, be drawn up by the Registrar to have effect within the State of Rajasthan.

770. Grant when to have effect throughout India - In all cases in which it is sought to obtain a grant of probate or letters of administration (with or without the will annexed) to have effect throughout the territory of India, or under the Administrator-General's Act, 1913, to have effect throughout one or more of the other Divisions as defined in that Act, such grant shall be expressly asked for, and it shall be shown where the assets are situated.

771. Surety Bond - The sureties to a bond given under section 291 of the Act shall be approved by the Registrar. Such bond shall in all cases be prepared in the office of the Registrar and shall, unless otherwise ordered by the Court, be given in the amount of the full value of the property for which the grant is to be made less the amount of debts (if any) secured by mortgage of the estate property. The Bond shall be in the prescribed form.

772. Attestation of bonds - The execution of administration bonds shall be attested by the Registrar or, where executed outside the Court House, by the Registrar or such gazetted officer as may be nominated by the Registrar for that purpose.

773. Consequence of neglect to proceed with petition or to furnish security - If a petitioner for a grant of probate or letters of administration, for three months from the admission of the petition, neglects to proceed with the petition, or for three months of the date of the order, for grant neglects to give the required security or otherwise to proceed with the application, or to take out the grant, the Registrar shall give notice in writing of his default to the Administrator- General, who may then apply to the Court for an order that the petition be dismissed, and that he may be at liberty to apply for a grant of letters of administration.

If no further steps are taken in the matter, the petition may be posted before the Court for dismissal and the Court may thereupon make such order as it thinks fit.

774. Schedule of property to accompany certificate under section 274 of the Indian Succession Act or section 24 of the Administrator General's Act - With every certificate to be sent to a High Court, under the provisions of section 274 of the Act, or section 24 of the Administrator-General's Act, 1913, the Registrar shall send a copy of so much of the schedule of the property and credits of the deceased as relates to the estate within the jurisdiction of such Court.

775. Extension of grants - A grant (a) under the Act having effect within Rajasthan or (b) under the Administrator-General's Act, 1913, within Rajasthan may be amended so as to extend its effect in case (a) throughout the territory of India or in case (b) throughout one or more of the other Divisions as defined in that Act. The application shall be by petition supported by a further affidavit of valuation in the form set out in Schedule III to the Court Fees Act, 1870, as adapted to Rajasthan, with such variations as the circumstances may require, and on payment of the probate duty payable, in respect thereof, and in case of grant of letters of administration with or without the will annexed, on the petitioner giving a further bond, the grant may be amended accordingly.

776. Inventory and Account - The inventory and account to be furnished by an executor or administrator under section 317 of the Act shall be in the prescribed forms, and shall be verified in the manner following:

"I....., the executor (or administrator) named in the above inventory, do hereby declare that the said inventory is in every respect true, perfect and correct to the best of my knowledge, information and belief and that the same contains a full, true and perfect inventory of all the property in the possession of the deceased, at the date of his death, and of all credit owing to him, and of all debts owing by him;" or

"I....., the executor (or administrator) named in the above account do hereby declare that the said account is true, perfect and correct to the best of my knowledge, information and belief, and that it gives a full,- true and perfect account of all the estate and the effects of the deceased , which has or have come into my hands, possession, power, control, custody or knowledge, and of the disposition of the same".

SECTION C

Contentious Business.

777. Caveats - Any person intending to oppose the issuing of a grant of probate or letters of administration must either personally or by his advocate file a caveat in the Court in the prescribed form. Notice of the filing of the caveat shall be given by the Court to the petitioner or his Advocate (form prescribed).

778. Affidavits in support of caveat - Where a caveat is entered after an application has been made for a grant of probate or letters of administration with or without the will annexed, the affidavit or affidavits in support shall be filed within fourteen days of the caveat being lodged. Such affidavit shall state the right and interest of the caveator, and the ground of the objections to the application.

779. When caveat is entered before application for grant is filed - Where an application for grant of probate or letters of administration with or without the will annexed is presented after a caveat has been filed, the Registrar shall forthwith issue notice to the caveator, calling upon him to file his affidavit or affidavits in support of the caveat within fourteen days from the service of such notice.

780. Consequence of non-compliance - Where the caveator fails to file any affidavit in support of his caveat, in compliance with Rule 778 or in compliance with the notice issued under Rule 779, the caveat may be discharged by an order to be obtained on application to the Court.

781. Conversion of application into suit - Upon the affidavit in support of the caveat being filed (notice whereof shall immediately) be given by the caveator to the petitioner), the proceedings shall be numbered as a suit in which the petitioner for probate or letters of administration shall be the plaintiff, and the caveator shall be the defendant, the petition for probate or letters of administration being registered as and deemed a plaint filed against the caveator, and the affidavit filed by the caveator being treated as his written statement in the suit. The procedure in such suit shall, as nearly as may be, be according to the provisions of the Code.

782. Proof in solemn form - The party opposing a will may, with his affidavit, give notice to the party setting up the will that he merely insists upon the will being proved in solemn form of law, and only intends to cross-examine the witnesses produced in support of the will, and he shall thereupon be at liberty to do so, and shall not in any event, be liable to pay the costs of the other side, unless the Court shall be of opinion that there was no reasonable ground for opposing the will.

783. Trial on preliminary issue - The Court may, on the application of the petitioner before directing that the proceedings be numbered as a suit, direct the trial of an issue as to the caveator's interest. Where upon the trial of such issue, it appears that the caveator has no interest, the Court shall order the caveat to be discharged, and may order the issue of probate or letters of administration, as the case may be.

SECTION D

MISCELLANEOUS

784. Administrator-General's Act, 1913 - Nothing in this Chapter shall apply to application to be made or acts to be done by the Administrator-General, in so far as they conflict with the provisions of the Administrator-General's Act, 1913.

785. Application of Rules to subordinate Courts - The Rules contained in this Chapter shall, so far as may be and with necessary modifications and adaptations, also apply to proceedings under the Act insubordinate Courts.

CHAPTER XXXI

Arbitration Rules

786. Preliminary - The Rules contained in this Chapter are made under section 44 of the Arbitration Act, 1940, hereinafter referred to as the Act.

787. Presentation of applications under the Arbitration Act, 1940

- All applications under the Act shall be made by petition and shall be presented to the Court in the same manner as a plaint or other application. The petition shall be verified in the same manner as a plaint and shall, if necessary, be supported by an affidavit.

788. Form of petition - The petition shall be divided into paragraphs, numbered consecutively, and shall contain the name, description and place of residence of the petitioner as well as the opposite party and a statement in summary form—

(a) of all material facts;

(b) of facts showing that the Court to which the application is presented has jurisdiction; and

(c) of the nature of the relief asked for; and shall specify the names, descriptions and places of residence of other persons likely to be affected by it.

789. Statement of special case under section 13 (b) of the Act - (1)

In a reference under section 13 (b) of the Act the question of law on which the opinion of the Court is sought and the facts out of which it arises shall be distinctly stated. A copy of the arbitration agreement, if any, shall be annexed to such reference. The arbitrators or umpire making the reference shall give notice of the action taken by them to the parties concerned.

(2) When the Court has pronounced its opinion under section 14 (3) of the Act, a copy thereof shall be sent to the arbitrators or umpire making the reference and they shall have such opinion added to and made part of the award.

790. Cases to be treated as suits or miscellaneous cases - A case in which the award is filed under section 14 (2) or an application made under section 20 (1) of the Act shall be numbered and registered as a suit. Other applications under the Act shall be numbered registered as a miscellaneous case.

791. Issue of notice - After a petition has been presented, the Court may, if it is not in order or according to law, reject it. If it is not so rejected the Court shall direct notice thereof to be given to all persons mentioned in the petition and to such other persons as may seem to it to be likely to be affected by the proceedings, requiring all or any of such persons to show cause, within the time specified in the notice, why the relief sought in the petition should not be granted. Such notice shall be accompanied by copies of the petition and the affidavit, if any, copies being supplied by the petitioner.

792. Payment of process-fees - (1) The petitioner shall deposit the necessary process-fees for service of notice on the other parties concerned

within seven days of the order directing the issue of notice or within such further time as the Court may, for sufficient cause shown, allow.

(2) The party who may have requested the arbitrators or umpire under section 14 (2) of the Act to cause an award to be filed shall, within seven days after the filing of the award or within such further time as the Court may, for sufficient cause shown, allow, deposit the necessary process-fees for the service of notice on the other parties concerned.

793. Mode of filing the award - (1) Where the award is filed by the arbitrators or umpire under section 14 (2) of the Act, they shall send to the Court under sealed cover the award or a signed copy thereof together with any proceedings or depositions and documents which may have been taken and proved before them and the opinion pronounced by the Court on the special case under section 14 (3) of the Act, if any. They shall also send with, the award a copy of the notice given to the parties concerned under section 14 (1) of the Act. If the sealed cover is sent by post, it shall be sent under registered cover.

(2) Where the award is filed by a party to the arbitration, any party may move the court to direct the arbitrators or umpire to produce before it any proceedings or depositions and documents which may have been taken and proved before them, which may be in their possession.

794. Application under sec. 20(1) of the Act - Every application under section 20 (1) of the Act shall be accompanied by a copy of the arbitration agreement.

795. Issue of processes at the request of arbitrators or umpire.- (1) The Court shall cause processes to be issued to the parties to an arbitration proceeding or to witnesses on the written request of the arbitrators or umpire.

(2) If the proceedings are under Chapter II of the Act, the request for the issue of such processes shall be accompanied by a copy of the agreement under which the arbitrators or umpire are acting.

796. Court-fees and process fees.- Court-fees and process-fees chargeable with respect to all matters under the Act, shall, as nearly as may be, in accordance with the provisions of the Court-fees Act, 1870, as adapted to Rajasthan, and the Rules for the time being in force relating to the payment of such fees on the original side.

797. Procedure.- In matters not provided for in this Chapter, the provisions of the Code and any Rules governing the proceedings of the Court shall, so far as may be and with necessary modifications and adaptations, apply to all proceedings including appeals under the Act before the Court.

798. Proceedings in subordinate courts.- These Rules shall, with necessary modifications and adaptations, also apply to proceedings under the Act in subordinate courts.

²³⁴**Part VII**

Chapter XXXI – A

Rules framed under clause (e) of section 4 of the Powers of Attorney Act 1882 (Act No. VII of 1882) and the fees to be taken under clause (a), (b) and (c) of the said section.

798 A. Presentation of petition to the Registrar - An application to deposit a power of attorney must be made by a petition signed by the applicant which must be presented to the Registrar, either by the petitioner in person or by an Advocate of the High Court.

798 B. Execution of Power of Attorney under Sec. 4. clause (a) of Powers of Attorney Act - The power of attorney, the execution of which shall be verified in accordance with the provisions of section 4, clause (a), of the powers of Attorney Act, 1882 must be annexed to such petition and will be received for deposit on the Court being satisfied as to its due execution but the Court may, before making an order for its deposit, require further evidence of such execution.

798 C. Receipt given on an order for deposit being made - On an order for deposit being made, the power of attorney will be placed on the file of instruments deposited under the said Act and a receipt given for it.

798 D. Payment of fees for inspection or certified copies of the instrument so deposited - Any person desiring to inspect an instrument so deposited or to obtain a certified copy or to have a copy certified, must pay the fees prescribed in the Table of Fees.

TABLE OF FEES

	Rs.	P.
1. For application to deposit a power of attorney	1	0
2. For filing a power of attorney	2	0
3. For application for search	1	0
4. For a certified copy or for authentication of a copy presented as under :-		

234 : Added vide Rajasthan Gazette No. 33, dated 17.11.1960, Part IV-C at Pages 494-495.

(a) For copying or comparing per folio of 90 words.	0	50
(b) Sealing	2	0

CHAPTER XXXII

Rules under Section 16 of the Indian Divorce Act, 1869

799. Decree nisi - A decree *nisi* shall not be made absolute till after expiration of a period of six months or such longer period as may be specially fixed by the Court at the time of the passing of the decree from the pronouncing thereof.

800. Entering appearance of a person showing cause against decree nisi being made absolute - (1) Any person other than the officer appointed under section 17 A of the Indian Divorce Act, 1869, wishing to show cause against a decree *nisi* being made absolute may after obtaining the leave of the Court enter an appearance in the proceeding in which the said decree was pronounced, and at the same time file an affidavit setting forth the facts upon which he relies.

(2) A certified copy of the affidavit shall thereafter be served upon the party in whose favour the said decree was pronounced or his Advocate and such party may within a time to be fixed by the Court file an affidavit in answer. The person showing cause against the said decree being made absolute may, within a further time to be so fixed, file an affidavit in reply thereto.

801. Affidavit not required in the case of an officer appointed under Section 17 A of the Divorce Act - No such affidavit shall be required when cause is shown by the officer appointed under section 17 A of the Indian Divorce Act.

²³⁵[Chapter XXXII-A

RULES UNDER THE HINDU MARRIAGE ACT

In exercise of the powers conferred by Sections 14 and 21 of the Hindu Marriage Act, 1955 (Act XXV) of 1955) the Hon'ble the Chief Justice and Judges are pleased to make the following Rules for carrying out the purposed of the Act:-

801A. Short title and commencement -

(i) These Rules may be called the Hindu Marriage and Divorce Rules,

²³⁵ : Added vide Rajasthan Gazette No. 33, dated 17.11.1960, Part IV-C at Pages 494-495.

1956.

(ii) These Rules shall come into force on 1st June, 1956.

801B. Definitions - (i) “Act” means the Hindu Marriage Act, 1955 (Act XXV of 1955).

(ii) “Code” means the Code of Civil Procedure, 1908.

(iii) “Court” means the Court mentioned in Section 3(b) of the Act.

801C. Petition - Every petition under the Act shall be accompanied by a certified extract from the Hindu Marriage Register maintained under section 8 of the Act.

801D. Service of petitions - Every petition under the Act shall be served on the party affected thereby in the manner provided for service of summons under Order V of the Code :

Provided that the Court may dispense with such service altogether in case it seems necessary or expedient so to do.

801 E. Contents of petitions - (i) In addition to the particulars required to be given under Order VII, Rule 1, of the Code and section 20 (1) of the Act, every petition for judicial separation, nullity of marriage and divorce shall contain the following particulars :-

- (a) the place and date of marriage;
- (b) the name, status and domicile of the wife and husband, before and after the marriage ;
- (c) the principal permanent address where the parties co-habited including the address where they last resided together ;
- (d) whether there is living any issue of the marriage and, if so, the names and dates of birth, or ages of such issues;
- (e) whether there have been in any Court in India, and, if so, what previous proceedings, with references to the marriage by or on behalf of either of the parties, and the result of such proceedings;
- (f) the matrimonial offence or offences charged set out in separate paragraphs with the time and place of its or their alleged commission;
- (g) property mentioned in section 27 of the Act, if any ;
- (h) the relief or reliefs prayed for.

(i) In every petition presented by a husband for divorce on the ground that his wife is living in adultery with any person or persons or for judicial separation, on the ground that his wife has committed adultery with any person or persons, the petitioner shall state the name, occupation and place of residence of such person or persons, so far as they can be ascertained.

(iii) In every petition presented by a wife for divorce on the ground that her husband is living in adultery with any woman or women or for judicial separation, on the ground that her husband has committed adultery with any woman or women, the petitioner shall state the name, occupation and place of residence of such woman or women, so far as they can be ascertained.

801F. Every petition for divorce on any of the grounds mentioned in clause (viii) or (ix) of sub-section (1) of section 13 of the Act shall be accompanied by a certified copy of the decree for judicial separation or for restitution of conjugal rights, as the case may be.

801G. Necessary parties - (a) In every petition for divorce or judicial separation on the ground that the Respondent is living in adultery or has committed adultery with any person the petitioner shall make such person a co-respondent. The petitioner may, however, apply to the Court by an application supported by an affidavit for leave to dispense with the joinder of such person as a co-respondent on any of the following grounds :-

(i) that the name of such person is unknown to the petitioner although he has made due efforts for discovery ;

(ii) that such person is dead ;

(iii) that the respondent being the wife is leading a life of a prostitute and that the petitioner knows of no person with whom adultery has been committed ;

(iv) for any other sufficient reason the Court may deem fit to consider.

(b) In every petition under section 13 (2) (i) of the Act the petitioner shall make “the other wife” mentioned in that section a co-respondent.

(c) In every petition under section 11 of the Act on the ground that the condition in section 5 (1) is contravened, the petitioner shall make the spouse alleged to be living at the time of the marriage a co-respondent.

801H. Verification of petition - Statements contained in every petition shall verified by the petitioner or some other competent person in the manner required by the Code for the verification of plaints.

801 I. Forms of petitions - The petitions made under the Act shall, so far as possible, be made in the forms prescribed in the Schedule to the Indian Divorce Act, 1869 (IV of 1869).

801J. Notice - The Court shall issue notice to the respondent and co-respondent, if any. The notice shall be accompanied by a copy of the petition. The notice shall require, unless the Court otherwise directs, the respondent or

co- respondent to file his or her statement in Court within a period of four weeks from the service of the notice and to serve a copy thereof upon each of the other parties to the petition within the aforesaid period.

801K. Written statements in answers to petitions by Respondents

- The Respondent may and, if so required by the Court, shall present a written statement in answer to the petition. The provisions of order VIII of the Code shall apply mutatis mutandis to such written statements. In particular, if in any proceedings for divorce the Respondent opposed the relief sought in the petition on the ground of the petitioner's adultery, cruelty or desertion, the written statement shall state the particulars of such adultery, cruelty or desertion.

801L. Intervenor's petitions - (1) Unless the Court for good cause shown otherwise directs, where the written statement of the respondent alleges adultery by the petitioner with a named man or woman, a certified copy of such statement or such material portion thereof containing such allegation shall be served on such man or woman accompanied by a notice that such person is entitled within the time therein specified to apply for leave to intervene in the cause.

(2)(a) Costs regarding intervention :- Whenever the Court finds that an intervener had no sufficient grounds for intervening, it may order the intervener to pay the whole or any part of the costs occasioned by the application to intervene.

(b) When the Court finds that the charge or allegation of adultery against the intervenor made in any petition or written statement is baseless or not proved and that the intervention is justified, it may order the person *making* such charge or allegation against the intervener to pay to the intervener the whole or any part of the costs of intervention.

801M. Answer - A person to whom leave to intervene has been granted may file in the Court an answer the written statement containing the charges or allegations against such intervenor.

801N. Mode of taking evidence - The witnesses in all proceedings before the Court, where their attendance can be had, shall be examined orally, and any party may offer himself or herself as a witness, and shall be examined, and may be cross-examined and re-examined like any other witness :

Provided that the parties shall be at liberty to verify the respective cases in whole or in part by affidavit, but so that the deponent in every such affidavit, shall on the application of the opposite party, or by direction of the Court be subject to be cross-examined, by or on behalf of the opposite party orally, and after such cross-examination may be re-examined orally as aforesaid by or on behalf of the party by whom such affidavit was filed.

801O. Costs - Whenever in any petition presented by a husband the alleged adulterer has been made a co-respondent and the adultery has been established, the Court may order the co-respondent to pay the whole or any part of the costs of the proceedings :

Provided that the co-respondent shall not be ordered to pay the petitioner's costs :-

- (i) If the respondent was at the time of the adultery living apart from her husband and leading the life of a prostitute, or
- (ii) If the co-respondent had not, at the time of adultery, reason to believe the respondent to be a married person.

801P. Applications for alimony and maintenance - (a) Every application for maintenance Pendente lite Permanent alimony and maintenance, or for custody, maintenance and education expenses of minor children, shall state the average monthly incomes of the petitioner and the respondent, the sources of these incomes, particulars of other movable and immovable property owned by them, the number of dependents on the petitioner and the respondent and the names and ages of such dependents.

- (b) Such application shall be supported by an affidavit of the applicant.

801Q. Application for leave under section 14 of the Act - (1) Where any party to a marriage desires to present a petition for divorce within three years of such marriage, he or she shall obtain leave of the Court under section 14 of the Act on ex parte application made to the Court in which the petition for divorce is intended to be filed.

(2) The application shall be accompanied by the petition intended to be filed bearing the proper court-fee under the law and in accordance with the rules. The application shall be supported by an affidavit made by the petitioner setting out the particulars of exceptional hardships to the petitioner or exceptional depravity on the part of the respondent on which leave is sought.

(3) The evidence in such application may, unless the Court otherwise directs, be given by affidavit.

(4) When the Court grants leave, the petition shall be deemed to have been duly filed on the date of the said order. The petitioner within a week of the date of the said order shall file sufficient number of copies of application for leave and order of the Court thereon and of the petition for divorce for service upon the respondents in the petition.

801R. Service of copy of application for and order granting leave on the Respondents and procedure after service - (1) When the Court grants leave under the preceding rule a copy of the application for leave

and order granting leave shall be served on each of the respondents along with the notice of the petition for divorce.

(2) (a) When the respondent desires to contest the petition for divorce on the ground that leave for filing the petition has been erroneously granted or improperly obtained, he or she shall set forth in his or her written statement the grounds with particulars on which the grant of leave is sought to be contested.

(b) The Court, may, if it so deems fit, frame, try and decide the issue as to the propriety of the leave granted as a preliminary issue.

(c) The Court may, at the instance of either party, order the attendance for examination or cross-examination of any deponent in the application for leave under the preceding rule.

801S. Taxation of costs - Unless otherwise directed by the Court, the costs of the petition under the Act shall be costs as taxed in a suit.

801T. Order as to costs - The award of costs shall be within the discretion of the Court.

801U. Transmission of certified copy of the decree - The Court shall send a certified copy of every decree for divorce or nullity or dissolution of marriage to the Registrar of Marriages in charge of the Hindu Marriage Register.]

CHAPTER XXXIII

Rules under Section 99 F of the code of Criminal Procedure, 1898

802. Application under section 99 B of the Code of Criminal Procedure - The Rules contained in this Chapter shall apply to an application made to the Court under section 99B of the Code of Criminal Procedure, 1898.

803. Form of application - The application shall be in the form of a petition duly signed and verified by the applicant and accompanied by an affidavit setting forth the grounds upon which the order of forfeiture made under sub-section (1) of section 99 A of the Code of Criminal Procedure is sought to be set aside and stating what the interest of the applicant is in respect of the newspaper, book or other document in question. All documents or copies thereof in proof of such interest together with a copy of the notification issued under that sub-section shall be annexed as exhibits to the petition. The petition shall mention at the top the name of the newspaper, book or other document to which it relates and the name of the press, if any, where it may have been printed.

804. Presentation of petition - The petition with the exhibits annexed thereto and their transliterations or translations, if any, together with a copy of such petitions and exhibits or their transliterations or translations, if any, shall be laid before the Chief Justice for the constitution of a Special Bench of three Judges as required by section 99 C. On the constitution of such Bench a day for the hearing and determination of the petition shall be fixed.

805. Notices to Chief Secretary, Rajasthan Government - Notice of the day fixed for the hearing and determination of the petition shall be given by the Registrar to the Chief Secretary to the Government of Rajasthan. Copies of the petition and exhibits or their transliterations or translations, if any, shall accompany such notice.

806. Printed paper book - A paper book shall be prepared under the orders of the Registrar as nearly as may be in the manner provided for the preparation of paper books in First Appeals at least one week before the day fixed for the hearing of the petition.

807. Summons and warrants - Every summons or warrant of arrest issued by the Court shall be issued in duplicate, signed and sealed by the Registrar and shall unless otherwise ordered be sent to the District Magistrate concerned for service or execution.

808. Costs - In disposing of the petition the Court may make such orders as to costs as it may consider just.

809. Execution of orders - The provisions of the Code and these Rules and any orders or directions given by the Court relating to the execution of decrees and orders shall, with such adaptations and modifications as may be found necessary, apply to the execution of orders passed under this Chapter.

²³⁶[Chapter XXXIII-A

Rules under the Trade Marks Act, 1940

809A. Definitions - (a) In these Rules 'the Act' means the Trade Marks Act, 1940.

(b) 'The Registrar' means the Registrar of Trade Marks and includes the Deputy Registrar of Trade Marks.

(c) 'The Deputy Registrar (Judicial)', means the Deputy Registrar of the High Court of Judicature for Rajasthan at Jodhpur or at the Jaipur Bench as the case may be.

236 : Added (Chapter XXXIII-A) vide Rajasthan Gazette No. 61 dated 8.10.55 Part IV-C, Page 408.

(d) 'Judge' means the Judge nominated by the Chief Justice for the purpose.

809B. Title of application - Applications, affidavits and proceedings under the Act shall be instituted in the matter of the Act and the matter of the Trade Mark.

809C. Mode of application - All applications and appeals under the Act shall be made by petition supported by affidavit and shall be presented to the Deputy Registrar (Judicial).

809D. Disposal of petition - The Deputy Registrar (Judicial) shall lay the petition before the Judge who may either admit the petition and direct notice thereof to be given to the opposite party or may reject it summarily or may make such order as the circumstances of the case may require.

809E. Service on Registrar - All applications to the Court whether by way of appeal or otherwise shall be served on the Registrar who shall have a right to appear and be heard and shall appear if so directed by the Court.

809F. Stay of pending suits or proceedings - If any application or appeal is made to the High Court under the Act and any suit or other proceeding concerning the Trade Mark in question is pending before the High Court or any District Court, the High Court may stay such suit or proceeding until the disposal of the said application or appeal.

809G. Reference under 72(b) - Where the Registrar makes a reference to the High Court under Section 72(b) of the Act, he shall give notice of that fact to the parties concerned. After the Registrar has filed the reference, the Deputy Registrar (Judicial) shall fix a date for the hearing of the same and shall put it on the list of the Judge on such date for disposal. The Registrar, shall give seven days' notice of the day so fixed to the parties concerned.

809H. Procedure for withdrawal of application under Section 76(2) - Where under section 76(2) of the Act, an applicant becomes entitled and intends to withdraw his application, he shall give notice of the intention in writing to the Registrar and to the other parties, if any, to the appeal within one month after the leave referred to in that section has been obtained. He shall also give notice to the Deputy Registrar (Judicial) who shall thereupon forth with place the appeal on the list for disposal.

809I. Counter claim for rectification of Register in a suit for infringement - A defendant in a suit filed in the High Court may in regard to any registered trade mark in issue counter claim for the rectification of the register and shall within the time limited for the delivery of the counter claim

serve the Registrar with the same, and the Registrar shall be entitled to take such part in the suit as he may think fit without delivering a defence or other pleading.

809J. Order of rectification to be sent to Registrar - A certified copy of every order directing rectification of the register shall be sent by the Deputy Registrar (Judicial) to the Registrar who shall thereupon rectify the Register accordingly. The cost of the certified copy shall be borne by the applicant or the appellant as the case may be.

809K. Application of the Code of Civil Procedure and Rules and Forms of the Court - In cases not provided for in the foregoing rules, the provisions of the Code of Civil Procedure, 1908 and the Rules and Forms of the High Court of Judicature, for Rajasthan shall apply mutatis mutandis to all proceedings under the Act.]

CHAPTER XXXIV

Rules relating to cases under the Chartered Accountants Act, 1949 (Central Act XXXVIII of 1949)

810. Preliminary - The Rules contained in this chapter shall regulate the procedure to be adopted in regard to cases received by the High Court under section 21 of the Chartered Accountants Act, 1949 (herein after referred to as the Act).

811. Numbering of cases - All cases received by the High Court under section 21 of the Act shall be numbered as "Cases Referred."

812. Material papers relating to an enquiry - The Council of Institute of Chartered Accountants of India (herein after referred to as the Council) shall forward to the High Court one set of material papers relating to the enquiry which will be regarded as the original set. It shall include the following records:

—

- (a) The finding of the Council.
- (b) The Report of the Disciplinary Committee.
- (c) Complaint or information.
- (d) Written statement of defence.
- (e) Depositions of witnesses, affidavits, exhibits and other oral and documentary evidence.
- (f) Notes of the hearing before the Disciplinary Committee and the Council.

(g) Such other papers which were before the Disciplinary Committee and the Council as the Council may consider relevant or the High Court may require for the disposal of the case.

The Council shall also furnish the High Court with two additional authenticated copies of the papers aforesaid.

813. English translation of certain documents - A translation in English of the documents which are not in that language and are included in the material papers shall be furnished by the Council under its own authority. If the High Court considers that an official translation of any document or documents is necessary, such translation shall be made in the High Court, the expenditure incurred in that behalf being recovered from the Council.

814. Copies of material papers - In case the Central Government or any person interested requires copies of the material papers, the Council shall furnish such copies on application made to it subject to such terms and conditions as may be prescribed by the Council.

815. Memorandum of postal addresses - The Council shall forward along with the material papers a memorandum containing the full and correct postal addresses of all persons or authorities on whom notices are required to be served under section 21 (2) of the Act.

816. Date of hearing - On the case being numbered, the Registrar shall fix a date for the hearing of the case and shall cause notice to be issued under section 21(2) of the Act in the Form prescribed in part V of Appendix A. The date of hearing shall be so fixed that there will be an interval of not less than 15 days between the date of service of notice and the date of hearing.

817. The case to be heard by a Bench of not less than two Judges - The case shall be heard by a Bench of not less than two Judges, to be constituted by the Hon'ble the Chief Justice.

818. Copy of certified order of the Court to be sent to the Secretary to council and Government of India - The Registrar shall send a certified copy of any order that may be passed by the High Court in the case to the Secretary to the Council and to the Secretary to the Government of India (Ministry of Finance).

²³⁷[Chapter XXXIV – A

Rules under the Special Marriage Act, 1954

237 : Added (Chapter XXXIV-A) vide Rajasthan Gazette No. 47 dated 16.7.55 Part IV-C Page 273.

818A. Short title and commencement - (i) These Rules may be called the Special Marriage Rules, 1955.

(ii) The Rules shall come into force from the date of publication.

818B. Definition - (i) 'Act' means the Special Marriage Act, 1954 (Act XLIII of 1954).

(ii) 'Code' means the Code of Civil Procedure, 1908.

(iii) 'Court' means the District Court.

818C. Petition - Every petition made under the Act, shall be accompanied by a certified copy of the certificate from the Marriage Certificate Book about the solemnization of the marriage under the Act.

818D. Contents of petitions - (i) In addition to the particulars required to be given under Order VII, Rule, 1 of the Civil Procedure Code, every petition for judicial separation, nullity of marriage and divorce shall contain the following particulars :-

(a) The place and date of marriage;

(b) The name, status and domicile of the wife and husband before the marriage ;

(c) The principal permanent address where the parties cohabited including the address where they last resided together ;

(d) Whether there is living any issue of the marriage and if so, the names and dates of birth, or ages of such issues ;

(e) Whether there have been in any Court in India, and, if so, what previous proceedings, with reference to the marriage by or on behalf of either of the parties and the result of such proceedings ;

(f) The matrimonial offence charged set out in separate paragraphs with the time and places of their alleged commission ;

(g) The claims for damages, if any, with particulars ;

(h) If the petition is one for a decree of dissolution of marriage, or of nullity or annulment of marriage or for Judicial Separation, it shall further state that there is no collusion or connivance between the petitioner and the other parties to the marriage or alleged marriage ;

(i) the relief or reliefs prayed for.

(ii) In every petition presented by a husband for divorce or Judicial Separation, on the ground that his wife has committed adultery with any person or persons the petitioner shall state *the* name, occupation and place of residence of such person or persons, so far as they can be ascertained.

(iii) In every petition presented by a wife for divorce or Judicial Separation, on the ground that her husband has committed

adultery with any woman or women, the petitioner shall state the name occupation and place of residence of such woman or women, so far as they can be ascertained.

818E. Co-respondent in husband's petition - In any petition presented by a husband for divorce or Judicial Separation on the ground that his wife has, since the solemnization of the marriage, been guilty of adultery, the petitioner shall make the alleged adulterer a co-respondent to the said petition, unless he is excused from so doing by an order of the Court which may be made on any one or more of the following grounds which shall be supported by an affidavit in respect of the relevant facts :-

- (i) That the respondent is leading the life of a prostitute, and that the petitioner knows of no person with whom the adultery has been committed ;
- (ii) That the name of the alleged adulterer is unknown to the petitioner, although he has made due efforts for discovery;
- (iii) That the alleged adulterer is dead;
- (iv) For any other sufficient reason that the Court may deem fit to consider.

818F. Verification of petition - Statements contained in every petition shall be verified by the petitioner or some other competent person in a manner required by the Code of Civil Procedure for the time being in force for the verification of plaints.

818G. Forms of petitions - The petitions made under the Act, shall, so far as possible be made in the forms prescribed in the Schedule to the Indian Divorce Act, 1869, (IV of 1869).

818H. Petitions on behalf of Lunatics - When a husband or a wife is lunatic or an idiot, any petition under the Act, other than the petition for restitution of conjugal rights, may be brought on his or her behalf, by the person entitled to his or her custody.

818 I. Petitions by minors - (1) where the petitioner is a minor, he or she shall sue by his or her next friend to be approved by the Court; and no petition presented by a minor under the Act shall be filed until the next friend has undertaken in writing to be answerable for costs.

Such undertaking shall be filed in Court, and the next friend shall thereupon be liable in the same manner and to the same extent as if he were a plaintiff in an ordinary suit.

(2) The next friend shall file an affidavit along with the petition which shall state the age of the minor, that the next friend has no adverse interest to that of the minor and that the next friend is otherwise a fit and proper person to act as such.

(3) The Court may on considering the affidavit and such other material as it may require, record its approval to the representation of the minor by the next friend or pass such other orders as it may deem fit.

818J. Notice - The Court shall issue notice to the respondent and co-respondent, if any. The notice shall be accompanied, unless otherwise directed by the Court, by a certified copy of the petition. The notice shall also require, unless the Court otherwise directs, the respondent or co-respondent to file his or her statement in court within a period of four weeks from the service of the notice and to serve a copy thereof upon each of the other parties to the petition, within the aforesaid period.

818K. Service of petitions - Every petition and notice under the Act shall be served on the party affected thereby in a manner provided for service of summons under Order V of the Civil Procedure Code :

Provided that the Court may dispense with such service altogether in case it seems necessary or expedient so to do.

818L. Written statements in answers to petitions by respondents

- The respondent may and, if so, required by the Court shall present a written statement in answer to the petition. The provisions of Order VIII of the Code shall apply mutatis mutandis to such written statements. In particular, if in any proceedings for divorce the respondent opposes the relief sought in the petition on the ground of the petitioner's adultery, cruelty or desertion, the written statement shall state the particulars of such adultery, cruelty or desertion as required in the case of petition under clauses (d), (e) and (f) of sub-rule (i) rule 818 D and sub-rules (ii) and (iii) of the same rule and the particulars of any relief which he claims on the said grounds.

818M. Interveners in wife's petition - (1) Unless the Court for good cause shown otherwise directs :-

(a) Where the husband is charged with adultery with a named female person a certified copy of pleading or material portion thereof containing such charge shall be served upon the person with whom adultery is alleged to have been committed, accompanied by a notice that such person is entitled within the time therein specified to apply for leave to intervene in the cause.

(b) Where the written statement of the respondent alleges adultery by the petitioner with a named man or woman as the case may be, a certified copy of such statement or such material portion thereof containing such allegation shall be served on such man or woman accompanied by a notice that such person is entitled within the time therein specified to apply for leave to intervene in the cause.

(2) (a) Costs regarding intervention :- Whenever the Court finds that an intervenor has no sufficient grounds for intervening, it may order the intervenor to pay the whole or any part of the costs occasioned by the application to intervene.

(b) Whenever the Court finds that the charge or allegation of adultery against the intervenor made in any petition or written statement is baseless or not proved and that the intervention is justified, it may order the person making such charge or allegation against the intervenor to pay to the intervenor the whole or any part of the costs of intervention.

818N. Answer - A person to whom leave to intervene has been granted may file in the Court an answer to the petition or written statement containing the charges or allegations against such intervenor.

818O. Intervention by third party - During the progress of the petition under Chapter V or VI of the Act, any person suspecting that any parties to the petition are or have been acting in collusion, or the petitioner has committed fraud or he has concealed some material facts from the Court for the purpose of obtaining the decree prayed for shall be at liberty to apply to the Court stating the circumstances and facts of such collusion, fraud and concealment, as the case may be. The application shall be supported by an affidavit. When such application is filed, the Court shall give notice thereof to the parties concerned and after hearing them and taking necessary evidence pass the necessary orders :-

(i) If the Court comes to the conclusion that such collusion, fraud or concealment of material fact is proved, then the original petition shall be dismissed and the intervening third party shall be awarded his costs from the parties, guilty of such collusion, fraud or concealment of facts.

(ii) Whenever such application is made and the Court comes to the conclusion that the intervening third party had no grounds or no sufficient grounds for intervening, it may order him to pay the whole or any part of the costs occasioned by his intervention.

818P. Competence of husband and wife to give evidence as to cruelty or desertion or Judicial Separation - On any petition presented by a wife, praying for divorce or Judicial separation by reason of her husband having been guilty of adultery coupled with cruelty or of adultery coupled with desertion without reasonable excuse, the husband and wife respectively shall be competent and compellable to give evidence of or relating to such cruelty or desertion.

818Q. Mode of taking evidence - The witnesses in all proceedings before the Court, where their attendance can be had, shall be examined orally, and any

party may offer himself, or herself as a witness, and shall be examined, and may be cross-examined and re-examined like any other witness :

Provided that the parties shall be at liberty to verify their respective cases in whole or in part by affidavit, but so that the deponent in every such affidavit shall, on the petition of the opposite party, or by direction of the Court, be subject to be cross-examined by or on behalf of the opposite party orally, and after such cross-examination may be re-examined orally as aforesaid by or on behalf of the party by whom such affidavit was filed.

818R. Damages - Any husband may, either in a petition for Divorce or Judicial Separation, claim damages from any person on the ground of his having committed adultery with the wife of such petitioner :-

(i) Such petition shall be served on the alleged adulterer, and the wife unless the Court dispenses with such service in accordance with the provision of Rule 818K.

(ii) The damages to be recovered on any such petition shall be ascertained by the said Court, although the respondent or either of them may not appear. After the decision has been given, the Court may direct in what manner the damages shall be paid or applied.

818S. Costs - Whenever in any petition presented by a husband the alleged adulterer has been made a co-respondent and the adultery has been established, the court may order the co-respondent to pay the whole or any part of the costs of the proceeding ;

Provided that the co-respondent shall not be ordered to pay the petitioner's costs:-

(i) If the respondent was, at the time of the adultery living apart from her husband and leading the life of a prostitute ; or,

(ii) If the co-respondent had not, at the time of adultery reason to believe the respondent to be a married woman.

818T. Taxation of Costs - Unless otherwise directed by the Court, the costs of the petition under the Act shall be costs as taxed in suits under the Indian Divorce Act, IV of 1869.

818U. Order as to costs - The award of costs shall be within discretion of the Court and the Court shall make an order about the same while passing the decree.

818V. Power to adjourn - The Court may from time to time adjourn the hearing of any petition under the Act, and may require further evidence thereon if it seems fit so to do.

818W. Transmission of certified copy of the Decree - The Court shall send a certified copy of every decree for divorce or nullity or dissolution of marriage to the Marriage Officer appointed under Section 3 of the Act.]

²³⁸[**Part VII**

Chapter XXXIV–B

Rules framed under section 73 of the Copyright Act – 1957

818X. Appeals under section 72(2) of the Copyright Act, 1957 shall be governed mutatis mutandis by the Rules of Court, 1952 and by the provisions of Order XLI of the Code of Civil Procedure and for such purpose such appeals shall be deemed to be appeals from orders and shall be heard by a division bench.

818Y. The Court may, for sufficient reasons, direct that any proceedings in pursuance of the order appealed from shall remain stayed on such terms as it thinks fit.]

PART VIII

Miscellaneous

CHAPTER XXXV

Deposit and Repayment of Money

819. Heads of account - Money received and paid shall be classified under the following heads of account, namely—

- (1) Judicial deposits, including—
 - (i) sums deposited in lieu of security in Supreme Court Appeals and other cases under the orders of the Court; and
 - (ii) sums deposited in connection with the preparation of paper books.
- (2) Miscellaneous deposits, including—
 - (i) travelling and other expenses of witnesses;
 - (ii) cost of publication of notices in news papers;
 - (iii) fees and incidental charges of commissioners arbitrators etc;
 - (iv) copying charges received by money order;
 - (v) fee of the Government Examiner of questioned

238 : Added (Chapter XXXIV-B) vide Rajasthan Gazette No. 34, dated 24.11.60 Part IV-C, Page 512.

documents for giving opinion;

(vi) copying charges paid in cash for the preparation of copies of books, registers, maps or plans.

(3) Government credit, including—

(i) sums to be credited to Government out of the sums deposited under Head (i) (ii) of this Rule;

(ii) fines, stamp duties and penalties;

(iii) sale-proceeds of forms, waste paper, and useless furniture;

(iv) sale-proceeds of paper books;

(v) sums deposited by parties for summoning records.

²³⁹**819A.-** Direct receipts of money which fall under head of Account No. (1) and (3) shall, as far as possible be avoided.

²⁴⁰**820. Payment of cash by tender** - Payment of money into court shall ordinarily be made by means of a printed tender form in triplicate duly filled in Hindi or English by the payer.

821. Presentation of tender - The payer shall present the form to the Deputy Registrar ordinarily between the hours of 10-30 and 11-30 A.M. (or during morning hours 7-0 and 8-0 A.M.). The Deputy Registrar shall call for a report from the official in charge of the record of the case as to the correctness of the amount, the nature of the payment tendered and the number of the case, if any, as entered in the form and whether the payment is due from the person on whose behalf it is tendered. After such corrections as may be found necessary have been made, the Deputy Registrar shall put his signatures on the tender form, ²⁴¹[shall get the tender entered in the register of tenders as well as sign the order to receive Payment on the duplicate and triplicate forms of the tender. Thereafter the original tender shall be retained in safe custody by the Superintendent, Accounts Section, the duplicate and triplicate forms being returned to the payer for presentation and payment of the money to the officer named in the order i.e. the cashier or the treasury officer.]

The Deputy Registrar shall ensure that the tender form is ordinarily returned duly signed to the payer the same day by 1-0 P.M. or during morning hours 9-30 A.M.

²⁴²**[822. Payment to the Cashier** - (1) On presentation of the two tender forms and on payment of the money to the officer named in the order to receive payment, the payer shall receive as an acknowledgement one of the forms of tender duly signed and the other form shall be retained as a voucher by the treasury or the cashier and posted in a file book.

239 : Inserted vide Rajasthan Gazette No. 4 dated 25.4.57, Part IV-C, at page 31.

240 : Substituted vide Rajasthan Gazette No. 4 dated 25.4.57, Part IV-C, at page 31.

241 : Substituted vide Rajasthan Gazette No. 4 dated 25.4.57, Part IV-C, at page 31.

242 : Substituted vide Rajasthan Gazette No. 4 dated 25.4.57, Part IV-C, at page 31.

(2) At the close of the day the Superintendent, Accounts Section shall compare the original tenders with the advice lists received from the treasury as well as with the copies of tenders presented by the payers to the cashier. The cashier shall certify the receipt of money in the register of tenders giving the serial number of the entry made in the relevant register. The Superintendent, Accounts Section shall then counter-sign the cashier's certificate at the foot of the original tender and send it without delay to the official concerned for being placed on the record of the case.]

823. Time for payment - The time for the payment of money to the Cashier shall be from 10-30 A.M. to 2- P.M. and during morning hours 7-0 A.M. to 10-0 A.M.

824. Payment by Money Order - Payment of money into Court may also be made by money order addressed to the Deputy Registrar.

The money order shall be received by the cashier and entered in the register of money orders, and the register and the money order shall be laid before the Deputy Registrar for signature. A tender form in triplicate shall be prepared by the Superintendent of the department concerned, and the procedure laid down in the preceding Rules shall, so far as may be, be followed.

825. Deposit to be sent to the State Bank of India - Sums deposited under heads (1) and (3) of Rule 819 shall be entered at once in their respective receipt registers and sent to the Treasury.

826. Time bared translation and printing charges received by Money Order - Sums tendered on account of translation and printing charges beyond the prescribed period shall not be accepted. But where such sum has been received by money-order, it shall be entered in the register of Judicial deposit under sub-head

(ii) of head (1) of Rule 819 and credited to the personal ledger account mentioned in the next succeeding Rule.

827. Disbursement of miscellaneous deposits - Sums deposited under head (2) of Rule 819 shall be entered at once in the register of miscellaneous deposits and repayments.

Sums deposited under sub-head (v) of head (2) of Rule 819 shall be sent to the Treasury as soon as possible and credited to the Central Government under the appropriate head.

Sums deposited under other sub-heads shall be retained by the Cashier if the money is expected to be disbursed soon; otherwise the money shall be credited to the personal ledger account maintained at the Treasury in the name of the Deputy Registrar and may be withdrawn when required by means of a

cheque signed by the Deputy Registrar for the purpose of disbursement. In such case before the money is actually disbursed it shall again be entered in the register to which such deposit relates.

828. Manner of Repayment - The repayment of sums entered under head (2) of Rule 819 may be made by the Cashier in cash, or when the amount does not exceed Rs. 100/-, by postal money-order under the orders of the Deputy Registrar after deducting money order commission therefrom.

829. Repayment Orders - The repayment of sums entered under head (1) of Rule 819 shall be made ²⁴³(through treasury) by means of a repayment order upon an application in the prescribed form under the orders of the Registrar or the Deputy Registrar.

830. Presentation of application for Repayment - Every application for repayment under Rule 829 shall be signed by the person to whom the money is repayable or by the person duly authorized by him by a general or special power of attorney. When the person signing the application is not known to the Deputy Registrar, his signature shall be witnessed by an Advocate or any other person known to the Deputy Registrar.

If the applicant desires that the money be paid on his behalf to his Advocate, he shall sign a declaration on the form that the money be paid to such Advocate. Such Advocate shall also put his signature on the form.

The applicant shall fill up columns 1 to 4 of the form. If the precise amount due to him is not known, column 4 need not be filled up. The application shall bear the necessary court-fee stamps and shall be presented to the Deputy Registrar during the hours fixed for presentation of applications.

831. Identification of the applicant - If the person to whom the money is payable appears in person and is not personally known to the Deputy Registrar, no order for repayment shall be made until he has been identified by an Advocate or any other person known to the Deputy Registrar.

832. Repayment by Money Order - Where the sum to be repaid does not exceed Rs. 100/- and the applicant desires that the money be remitted to him by money order, he shall add to the application a request to that effect and mention the address at which the money is to be remitted to him. He may instead of presenting such application to the Deputy Registrar forward it to him by post after obtaining thereon the countersignature of a Judge, Munsif or Magistrate as to his identity under the seal of the court. In such case the money repayable less money order commission shall be remitted to him by money-order at the address given in the application.

243 : Inserted vide Rajasthan Gazette No. 4 dated 25.4.57, Part IV-C, at page 31.

If the applicant is serving in the Army, Navy or Air Force, the countersignature as to his identity by his Commanding Officer will be sufficient for the purpose of this Rule.

833. Order by the Court in certain cases - In the case of appeals to the Supreme Court, the Deputy Registrar shall before making an order of repayment obtain an order of the Court as to such repayment. The Deputy Registrar or the Court may before making an order of repayment direct notice to issue to any person or persons to show cause why such repayment should not be made.

834. Order of repayment - If the application is found by the Deputy Registrar to be incorrect or defective, he may get it-corrected by the applicant. The Deputy Registrar shall thereafter satisfy himself after calling for an office report that the repayment is due and that no charges are due from the applicant on account of any translation and printing. He shall also obtain a certificate from the Superintendent, Accounts Department, showing that there is no order of attachment or stop order in force affecting such money or any part thereof.

On being satisfied that any repayment is due to the applicant, he shall make an order of repayment and thereafter a repayment order shall be prepared in the proper form.

²⁴⁴sub-para Deleted

Where it is found that no money is payable to the applicant, the application shall be rejected and placed on the record of the case.

835. Repayment to be promptly made - It shall be the duty of the Deputy Registrar to see that applications for repayment are promptly dealt with and a repayment order should ordinarily be ready for delivery to the applicant within one week from the date of the application.

836. Checking of cash balance - The cash balance in the hand of the Cashier shall be checked at least once every month by the Deputy Registrar.

837. Registers - The Cashier shall keep the following registers, namely:—

- (1) Deposit Cash Book;
- (2) Cash book;
- (3) Register of Money Orders;

The Superintendent, Accounts Department, shall keep the following registers, namely,

- (1) Register of Receipt and Repayment of Judicial Deposits;
- (2) Register of Miscellaneous Deposits and Repayments;
- (3) Register of Lapsed Deposits;
- (4) Clearance Register;
- (5) Register of Personal Ledger Account;
- (6) Register of Contingencies;
- (7) Register of Government Credits or Revenue Receipts.

838. Acquittance Rolls - The Cashier shall also maintain the acquittance rolls.

839. Annual lists of unpaid deposits - Early in the month of February every year, of the registers of Receipts and Repayments of Deposits shall be carefully examined by the Superintendent, Accounts Department, and a list shall be prepared of—

(i) (a) all deposits not exceeding rupees five which have remained in deposit from a date prior to April 1 of the preceding year; and

(b) all unpaid balances of deposits not exceeding rupees five of all deposits which have been partly repaid, and

(ii) all deposits and unpaid balances of deposits which had on the first day of February remained in deposit from a date more than two years prior to April 1 of the preceding year.

The list shall be affixed on the notice board in a conspicuous part of the court-house with a notice stating that the items mentioned therein would lapse to Government if they are not withdrawn before April 1 following and that such lapsed deposits cannot be repaid without the sanction of the Accountant General.

CHAPTER XXXVI

Processes and Process Fees

840. Process-fees original jurisdiction - ²⁴⁵(1) The scale of fees chargeable for serving or executing any process issued by the Court in exercise of its Matrimonial, Testamentary and Intestate, or Original Civil Jurisdiction, ordinary or extra-ordinary, shall be double the scale of such fees chargeable in the Court of the District Judge under the rules in force for the service or execution of such processes.

²⁴⁶(2) The postal charges in all processes required to be transmitted by post together with registration fee, if the postal packet is required to be registered, should be paid by the Court by means of Service Postage Stamps without any additional charge being levied for the same from the parties at whose instance the process is issued.

²⁴⁵ : Renumbered vide Rajasthan Gazette No. 52 dated 27.3.58 Part IV-C Page 1123-24

²⁴⁶ : Added vide Rajasthan Gazette No. 52 dated 27.3.58 Part IV-C Page 1123-24

841. Process-fees appellate jurisdiction - (1) The fees chargeable for serving and executing processes issued by the Court in exercise of its civil appellate jurisdiction shall be as follows:—

(a) Notice of appeal or other notice to respondents, where the number of respondents to be served is not more than four — one fee of three rupees.

Where the number of such, respondents is more than four, the fees above- mentioned shall be charged for the first four together with an additional fee of eight annas for every respondent in excess of four; provided that the aggregate amount of fees levied under this clause shall not exceed fifteen rupees.

(b) Summonses to witnesses, where the number of witnesses to be served is not more than four — one fee of three rupees.

Where the number of such witnesses is more than four, the fee above mentioned shall be charged for the first four together with an additional fee of eight annas for every witness in excess of four.

(c) Warrant of arrest in respect of each person to be arrested — five rupees.

(d) Notice, proclamation or injunction or other order not otherwise provided for, where the number to be served is not more than four—one fee of three rupees.

Where the number is more than four, the fee above-mentioned shall be charged for the first four together with an additional fee of eight annas for every process in excess of four, provided that the aggregate amount of fees levied under this clause shall not exceed fifteen rupees.

(2) Sub-Rule (1) shall, with necessary modifications and adaptations, also apply to fees chargeable for, serving and executing processes in exercise of the Court, civil revisional jurisdiction.

842. When fees not chargeable - Notwithstanding anything contained in Rules 840 and 841, no fee shall be charged for:—

(a) Serving or executing any process issued by the Court of its own motion unless the Court orders that the process fee be paid by any party; or

(b) Serving or executing any process issued in consequence of the adjournment of a case otherwise than at the instance of a party; or

(c) affixing a copy of a notice, summons, proclamation or order in a court- house or a public office; or

(d) serving or executing an order upon an officer in charge of a jail directing him to detain or release a person committed to his custody; or

(e) serving or executing any process or order in connection with a departmental inquiry.

843. Process not to issue unless fee paid - No process in respect of which a fee is chargeable under Rule 840 or 841 shall be issued unless the requisite fee has been paid.

844. Fees to be paid in court-fee stamps - (1) Fees shall be paid in court-fee stamps by which shall be affixed to the application by which the Court is moved to issue the process, or, if there be no such application, to the memorandum of appeal or cross-objection or the application initiating the proceeding.

(2) Where an application is made for issue of process, the court fee paid on the application itself shall not be regarded as part of such process fee.

845. Service of process beyond Court's jurisdiction - (1) Where the Court sends a process for service or execution to any court beyond its jurisdiction, it shall endorse thereon a certificate that the fee chargeable under the Rules has been levied, so that it may be served or executed free of further charge by the Court to which it is sent.

(2) Where any extraordinary local expenses, such as, boat hire, have to be incurred in service or execution of such process, a sum sufficient to cover such expenses shall be paid in cash by the party concerned and sent by postal money order to the Court to which the process is sent for service or execution.

²⁴⁷[(3) (i) When processes or summons (both in civil and criminal cases) are issued in a language other than the official language of the receiving court, such processes or summons should be accompanied by an authorised English translation.

(ii) The report from the receiving court to the originating court regarding the service or non-service of the processes or summons should similarly be accompanied by an authorised English translation of the report.]

846. Fees for processes to be issued by another court - Fees for processes to be issued by the court to which a "commission is issued shall be payable in accordance with the rules of such court. They shall be paid in cash by the party concerned and sent by postal money order to that court.

847. Refund of process fee when process not issued - Where in consequence of a compromise or for some other reason, it becomes unnecessary to issue any process for which a process fee has been paid and such process has not been issued, one-half of the process fee shall be refunded to the party concerned provided that an application for such refund is made before the court fee stamps by which such process fee was paid are destroyed.

Save as provided above no fee paid in respect of a process shall be refunded after the order directing the issue of such process has been made.

848. Fees paid to be costs in the cause - Except as otherwise provided by these Rules or ordered by the Court, all fees and charges paid in accordance with the preceding Rules shall be costs in the cause:

Provided that no fees or charges which have been refunded or in respect of which a party might on application have obtained an order for refund, shall be deemed to be fees or charges within the meaning of this Rule.

849. Cost of summoning a record - The cost of summoning a record shall be rupees 2 and Rules 842 (a) and (e) 843, 845, 847 and 848 shall, so far as may be, and with necessary modifications and adaptations apply thereto. Such cost shall be paid in cash to the cashier.

CHAPTER XXXVII

Registers

850. Institution Registers - A separate Register of Institutions in the prescribed form shall be kept for each of the following classes of cases, namely:

- (1) First Appeals.
- (2) Execution First Appeals.
- (3) Second Appeals.
- (4) Execution Second Appeals.
- (5) ²⁴⁸(Deleted word..) Appeals from Orders.
- ²⁴⁹&²⁵⁰[(6) Civil Revisions.
- (7) Applications for Review of Judgment.
- (8) Matrimonial Suits.
- (9) Testamentary Suits.
- (10) Company Cases.
- (11) Other Original Suits.
- (12) Special Appeals.
- (13) Applications for leave to appeal to Supreme Court.
- (14) Civil Miscellaneous Cases.]
- ²⁵¹&²⁵²{(15) Civil References.}
- (16) Writ Cases.
- (17) Criminal Appeals.

248 : Deleted word from item No. 5 vide Rajasthan Gazette No. 143 dated 22.1.55 Part IV-C Page 858.

249 : Deleted (Item No. 6) vide Rajasthan Gazette No. 143 dated 22.1.55 Part IV-C Page 858.

250 : Renumbered subsequent items (after deleted item No. 6) vide Rajasthan Gazette No. 143 dated 22.1.55 Part IV-C Page 858.

251 : Inserted vide Rajasthan Gazette No. 48 dated 4.7.53 Part II P. 439.

252 : Renumbered vide Rajasthan Gazette No. 143 dated 22.1.55 Part IV-C Page 858.

- (18) Criminal Revisions.
- (19) Criminal References.
- (20) Criminal Miscellaneous Cases.

²⁵³{(21) Cases under section 374 of the Code of Criminal Procedure.}

²⁵⁴[(22) Any other applications seeking stay/injunction during pending case.

(23) Any other applications seeking order of the Court.]

The cases shall be entered in the register according to the date of presentation.

851. Register of Disposals - A separate Register of Disposals in the prescribed form shall be kept for each of the classes of cases mentioned in Rule 850.

²⁵⁶**852.** Omitted

853. Register of Miscellaneous applications - A register in the prescribed form shall be kept of all civil miscellaneous applications relating to pending cases (Rule 126). The applications entered in this register will be only those for the disposal of which orders of the Court may be required.

854. Alterations in Registers - The Register may, with the approval of the Chief Justice, make such alterations, addition or substitution in the columns of any register as may be found necessary.

CHAPTER XXXVIII

Inspection of Records

855. Removal of record from Court building - No record of any case shall be removed from the Court building except under an order in writing of a Judge or the Registrar:

Provided that if a Judge requires a record at his residence he may take it. The official in whose custody the record is shall keep a note of the date when the Judge takes the record is shall keep a note of the date when the Judge takes the record and the date when he returns it.

253 : Inserted vide Rajasthan Gazette No. 48 dated 4.7.53 Part II P. 439

254 : Inserted vide Rajasthan Gazette Part 1(B) dated 21.7.2005, Pg.50 & Rajasthan Gazette Part IV-C Dated 17.8.2005 Page 58.

255 : Substituted vide Notification No. 4/SRO/2011 dated 6.9.11 published in Raj. Gaz. EO Part 1 (B) dated 9.9.11.

256 : Omitted vide Notification No. 4/SRO/2011 dated 6.9.11 published in Raj. Gaz. EO Part 1 (B) dated 9.9.11.

856. No inspection of record in Administrative Department - No record or paper in the Administrative Department shall be inspected by any person other than a Judge or a Gazetted officer of the Court except under an order in writing of the Judge in the Administrative Department.

857. Inspection of record in Judicial Department - Except as provided in Rule 84 or Rule 220, no record or paper in the Judicial Department shall be inspected by any person other than a Judge or Gazetted officer of the Court without an order in writing of a Judge, the Registrar or the Deputy Registrar.

858. Time of inspection - Any person permitted to inspect a record may inspect it between the hours of 12 Noon to 3 P.M. and during morning hours 8.00 A. M. to 10.30 A.M on such day or days for which permission is given.

859. Place of inspection.- No inspection of the record of a Judicial case shall be made except in the room of the Inspection Clerk and in his presence.

860. Inspection by a party - Any party to a case or the Advocate or recognised agent of such party may apply for an order for inspection by himself of the record of such case or any paper or papers contained therein:

Provided that a party which has been ordered to file a written statement shall not be entitled to inspect a written statement filed by another party until it has first filed its own.

861. Inspection by stranger - (1) A person other than a party to the case may also apply for an order for the inspection of a record or any paper or papers contained therein provided he clearly stated in his application the reason why such inspection is desired.

(2) Such person shall not be entitled as of right to obtain an order for inspection and shall in no case be allowed to inspect any exhibit on the record except with the consent in writing of the person by Whom such exhibit was filed or by his successor-in-interest. Such consent shall be filed along with the application for inspection.

²⁵⁷(3) Notwithstanding anything contained in sub-rule (2) an officer or other nominee of the Reserve Bank of India duly authorised for the purpose by the Bank may be allowed to inspect the records of the Court in the matter of any Bank in liquidation.

862. Form of application - Every application for inspection shall be on the prescribed form and shall specify clearly—

- (a) the particulars of the record or paper of which inspection is desired;
- (b) the party or the person on whose behalf the application is made;
- (c) the name of the person by whom inspection is to be made; and
- (d) whether the application is an ordinary or an urgent one.

863. Fees - The fees for the inspection of records in Civil and Criminal cases shall be paid in court fee labels in accordance with the following scale, namely

- (i) Ordinary—Rupee one.
- (ii) Urgent—Rupees two.

Provided that no fee shall be charged in the case of—

- (a) inspection by counsel appearing for the Government or by an officer of the Government whose duty it is or who may have been empowered by the Government to make inspection of records;
- (b) inspection by counsel for accused:—
 - (i) where the accused is in custody;
 - (ii) where the counsel is appointed at the expense of the Government;

²⁵⁸{(c) inspection by an officer or other nominee of the Reserve Bank of India inspecting a record under sub-rule (3) of Rule 861.}

²⁵⁹{(d)} inspection by any person specially exempted from the payment of such fees by the Chief Justice.

864. Time of application - Every application for inspection shall be made before the Deputy Registrar on a working day between the hours of 10.30 A.M. and 1 P.M. and during morning hours between 7-0 A.M. and 9. A.M. and shall bear the court-fee labels as provided in Rule 863:

Provided that a fresh application for the inspection of the same record on the next day shall be entertained up to 3.30 P.M., and during morning hours, upto 11 A. M.

865. Order of inspection - Every order for the inspection of a record shall specify the record or the paper or papers of which inspection is allowed and shall state the name of the person or persons who may make such inspection.

258 : Inserted vide Rajasthan Gazette No. 127 dated 11.12.54 Part IV-C Page 532.

259 : Renumbered vide Rajasthan Gazette No. 127 dated 11.12.54 Part IV-C Page 532.

866. Application to be forwarded to the Superintendent concerned - After an order for inspection has been made, the Deputy Registrar shall forward the application to the Superintendent of the department concerned.

867. Application to be numbered, initialled and registered - The Superintendent or one of his assistants shall number and initial the application and enter it in a register in which the following entries shall be made, namely—

- (a) Serial number of the application and the nature of inspection (Ordinary or Urgent);
- (b) particulars of the record or paper inspected;
- (c) date of the order of inspection;
- (d) date of inspection;
- (e) name of each person inspecting the record;
- (f) the date of receipt of record or paper and the date of its return;
- and
- (g) remarks, if any.

868. Ordinary and urgent applications - Inspection on an ordinary application shall be allowed on the day following the day on which the application is made or on a subsequent day mentioned in the order. Inspection on an urgent application shall be allowed on the same day.

869. No pen, ink etc. to be brought into the inspection room - The officer before whom the inspection is made shall not allow any person inspecting a record or paper to bring into the room any pen or ink or to make any mark, upon, or in any respect to mutilate, any record or paper which is being inspected. No person other than the person or persons named in the order of inspection shall be allowed to enter the inspection room:

Provided that a registered clerk may accompany an Advocate in the inspection room, but shall leave the room as soon as the advocate cases inspection.

870. Inspection of registers - (1) No one other than a Judge, the Registrar or a Gazetted officer of the Court may inspect any register except on an order in writing of the Registrar and in the presence of the officer whose duty it is to keep such register; and no one other than a Judge or the Registrar may inspect any confidential Register.

(2) The fee for the inspection of a register in the Judicial Department shall be one rupee and ²⁶⁰(fifty Naya Paisas.) In other respects the Rules contained in this chapter with reference to the inspection of record in any case or proceeding shall, with necessary modifications and adaptations, apply to the inspection of a register.

CHAPTER XXXIX

Copies

871. Copy not to be made without order - Except as otherwise directed by these Rules or by a Judge, no copy shall be made or permitted to be made of any record or of any paper in any record, without an order of the Court, the Registrar or the Deputy Registrar on an application made as hereinafter provided.

872. Application for copy - Every application for copy shall be presented in person or sent by post to the Deputy Registrar:

Provided that an application for copy by a stranger to the case to which the paper of which a copy is sought relates shall be presented in person to the Registrar—

- (a) when it is made before the passing of the final decree or order in the case; or
- (b) when the copy required is of an exhibit in the case whether the application is made before or after the date of the passing of the final decree or order.

873. Contents of application - Every application for copy shall be written on the prescribed form and shall state—

- (1) (a) the name and address of the applicant;
- (b) whether the applicant is a party to the case which the paper of which a copy is sought relates;
- (c) whether the application is an ordinary or an urgent one;
- (d) whether the copy is to be sent by post;
- (e) full particulars of the 'paper of which a copy is sought and the record in which it is contained mentioning in the case of an appeal, revision or reference, the Court in which the case under appeal or revision was decided or from which reference was received;
- (f) whether the case has been finally disposed of and the date of decision or final order, if any; and
- (g) when the applicant is not a party to the proceeding, the purpose for which the copy is sought.

874. Copies by post - Where it is desired that where the application for a copy is rejected, notice of its rejection be sent to the applicant by post, the address at which such copies or notice may be sent shall also be given in the application and postage stamps of the requisite value shall be attached thereto. Where the cover is required to be sent by registered post, the fact shall be stated in the application and extra postage stamps sufficient to cover registration charges shall also be attached to the application.

875. Time of presentation - All applications for copy shall be received between the hours of 10-30 A.M. and 1 P.M. and during morning hours, 7-0 A.M. and 9 A.M. The Registrar or the Deputy Registrar, as the case may be, may in exceptional circumstances receive any application after 1 P.M. (or 9-0 A.M.).

After receiving such applications, the Registrar or the Deputy Registrar, as the case may be, shall endorse on them under his initials the date of receipt, pass orders granting the application and forward them to the Head Copyist. The Head Copyist shall without delay put serial numbers on them and enter them in the Register of Applications for copies mentioned in Rule 891.

876. Copy of written statement - A party which has been ordered to file a written statement shall not be entitled to take a copy of a written statement filed by another party until it has first filed its own.

877. Application by stranger - An application by a stranger to the case for the copy of an exhibit whether the application is made before or after the passing of the final decree or order or for the copy of any other paper when it is made before the passing of the final decree or order in the case, shall not be granted unless the Registrar is satisfied that there is sufficient reason for granting it.

The Registrar may refer any application under Rule to the Administrative Judge for orders.

878. Grant of copy of exhibit to stranger - No order for a copy of an exhibit shall be made on the application of a stranger to the case in which such exhibit was filed, unless the application is accompanied by a properly authenticated consent of the person by whom such exhibit was filed to the grant of such copy.

879. Copy of deposition which is being recorded before the Court - Where an application is made for the copy of a deposition which is being recorded before the Court, the Deputy Registrar shall refer it to the Bench concerned for orders.

If the application is granted, the ordinary procedure shall be followed, except that only such portion of the deposition shall each day be given to the Head Copyist as may reasonably be expected to be copied out during the day. At the close of the day the Head Copyist shall return it to the Bench Reader concerned.

In the case of an urgent application, if the Court, so directs, such copy may be prepared by the judgment clerk by whom the deposition is taken down

in shorthand and shall be issued by the Head Copyist after he has compared it with the original. At the request of the applicant uncertified copies of such depositions may be issued without such comparison by the Head Copyist to avoid delay.

880. No charge for copy in certain cases - Notwithstanding anything contained in these Rules, the Registrar may order a copy of any paper on a record to be made and delivered free of charge upon an application on behalf of a Government or the head of any Department of a Government in India or any High Court in India, or any authority in India exercising jurisdiction similar to that of a High Court or any Court subordinate to this Court, or any principal Court in any other country ²⁶¹(to enable the Registrar to exercise his discretion, the purpose for which the copy is needed shall be stated.)

881. Free Copy - (1) A copy of the original or appellate decree in a pauper suit or appeal or application may be supplied free of charge on application to a Government Law Officer.

(2) A copy of the whole or any part of the record, when required for the purposes of conducting any trial or investigation or any judicial proceeding on behalf of the Government in a criminal case may on application be supplied free of charge to a Government Law Officer.

If, however, the Registrar considers that the demand made is in excess of what is necessary for the purpose stated in the application, he may refuse to grant free of charge any or all the copies applied for.

(3) A copy of the judgment or order in a criminal case may be supplied free of charge to a prisoner confined in a jail on an application received through the Superintendent of the Jail concerned.

If the application is made through a friend acting or purporting to act on behalf of the prisoner it shall be sent to the Superintendent of the Jail concerned to be attested by the prisoner and when so attested, it shall be treated as the prisoner's own application.

(4) In Civil cases in which the Government is a party, copies of judgment, orders and decrees and of any other papers required for the purposes of conducting the case shall be supplied free of charge to the Government Law Officer.

882. Confidential papers - ²⁶²{(1)} No copy of, or extract from, any minute, letter or document on any administrative or confidential file of the Court shall be issued except under an order in writing of the Chief Justice countersigned by the Registrar. Every such Order shall be kept in a file by the

261 : Added vide Rajasthan Gazette Part IV-C dated 29.4.71 Pg 73.

262 : Numbered vide Rajasthan Gazette Part 4 (C) dated 19.12.74 pg 424(77) & Notification No. 5/SRO GSR 226(33) dated 12.11.74.

Registrar and he shall make a note thereof duly dated and signed by him on such minute, letter or document.

²⁶³ {(2)} No copy of, or extract from, the minute book of the Administrative Committee shall be given except in accordance with any resolution passed at a meeting of the Administrative Committee.

²⁶⁴ {(3) No copy of, or extract from, the minute book of the Full Court or a Full 'Court circulation' file marked confidential or secret, shall be issued.}

883. Copy of copy - No copy shall be given of any document which is itself a copy except for special reasons to be recorded on the application by the Registrar or the Deputy Registrar, as the case may be. Where a copy of a copy is given, the fact that it is such copy shall be noted in red ink on the top of each page of such copy.

884. Delivery of copy to registered clerk - An application for copy duly signed by an Advocate may be presented by his registered clerk and the copy when ready may be delivered to the clerk presenting such application.

885. Copy of document in a language or character not current in the State -Where an application is made for a copy of any document in a language or character with which no copyist on the establishment; of the Court acquainted, the Registrar shall, if possible, arrange, for the preparation of a copy by any competent person acquainted with such language or character, who may, in his opinion, be relied upon for the purpose. In such a case the person preparing the copy shall verify it in the following manner, namely—

"I (A.B.) declare that I read and understand the language and character of the original and that the above is a true and accurate copy thereof".

If no such person can be found, the Registrar may send the document together with a copy of this Rule to a court in another State where such language or character may be in use and request it to have the copy made. Any additional charges incurred shall be borne by the applicant.

If agreed to by the person applying for such copy, the Registrar may, instead, have a photographic copy prepared of such document, if possible, on payment by the applicant of all such additional charges as may be incurred.

886. Application to be accompanied by copy folios and stamp labels - Except in cases where no copying fee is chargeable under these Rules,

263 : Numbered vide Rajasthan Gazette Part 4 (C) dated 19.12.74 pg 424(77) & Notification No. 5/SRO GSR 226(33) dated 12.11.74.

264 : Added vide Rajasthan Gazette Part 4 (C) dated 19.12.74 pg 424(77) & Notification No. 5/SRO GSR 226(33) dated 12.11.74

every application for copy shall be accompanied by copy folios bearing extra adhesive copy stamp labels of the requisite value, unless the copy required be of a book, register, map or plan or an extract thereof. If the whole of the copy cannot be written upon the copy folios accompanying the application, it shall be completed upon ordinary foolscap size paper:

Provided that where the copy required is a copy of a decree of the Court, the application shall be accompanied only by adhesive copy stamp labels of the requisite value and the copy shall be made on the printed form prescribed for the preparation of decrees, the court-fee labels being affixed thereon.

Provided further that when copy folios may not be available, plain paper may be used for the preparation of copies.

887. Scale of charges for copies - The following scale of charges is prescribed for copies, Viz;

(a) For a copy of a judgment, deposition, decree or any other paper except a book, register, map or plan or any extract thereof, containing less than four hundred words-

Ordinary ... Rs. 1/-

Urgent ... Rs. 2/-

(b) For a copy ordinary or urgent containing more than four hundred words, for four hundred words the charge shall be the same as detailed above, and for every subsequent hundred words or less an extra charge of ²⁶⁵(twenty five Naya Paisas) and ²⁶⁶(fifty Naya Paisas) shall be made for an ordinary and urgent copy respectively:-

²⁶⁷(The representatives of approved Law Reports shall, subject to the conditions laid down in Rule 119, be entitled to get (i) copies of Judgments and orders "Approved for Reporting" (A.F.R.) on payment of ²⁶⁸&²⁶⁹(Rs. 2 and 50 Naya Paisas) per copy and (ii) copies of judgments and orders not marked reportable on payment of three fourth of the above charges provided such judgments and orders are approved by the Judges for publication.)

²⁷⁰(In cases in which an applicant desires to have more than one copy of a paper and typed copies can be given, each copy after the first shall be supplied at half the rates prescribed above.)

888. Copies of books etc - Where the application is for the copy of a book, register, map or plan or any extract thereof, the Head Copyist shall, as soon as it has been received from the Registrar or the Deputy Registrar, as the case may

265 : Substituted vide Rajasthan Gazette No. 13 dated 26.3.58 in Part IV-C Page 554.

266 : Substituted vide Rajasthan Gazette No. 13 dated 26.3.58 in Part IV-C Page 554.

267 : Substituted vide Rajasthan Gazette No. 203 dated 7.3.53 Part II Page 1929.

268 : Substituted vide Rajasthan Gazette No. 103 dated 17.10.53 Part II P. 1057

269 : Substituted vide Rajasthan Gazette No. 13 dated 26.3.58 in Part IV-C Page 554.

270 : Added vide Rajasthan Gazette No. 10 dated 9.6.56 Part IV-C Page 199.

be, cause an estimate to be made of the cost of preparation of such copy and submit it along with the application to the Registrar. After the Registrar has approved the estimate, it shall be communicated to the applicant if present, or notice thereof shall be affixed on the Notice Board of the Copying office on two consecutive working days and the applicant shall be required to deposit the estimated cost within seven days. If the application has been received by post, a copy of the notice shall be sent by unpaid post to the applicant requiring him to deposit the estimated cost within ten days. If within the time aforesaid the estimated cost mentioned in the notice is paid to the cashier or received by him by money order, he shall enter it in the Register of Petty Items and inform the Head Copyist. The Head Copyist shall obtain the order of the Deputy Registrar for the purchase of the necessary stamp, tracing cloth etc. and the copy shall thereafter be prepared. If the cost is not received by the cashier within the aforesaid time, the application shall be rejected.

²⁷¹[**888A- Photostat Copies** – (1) The scale of charges for photostat copies of any judgment, deposition, decree, document, book, register, map, plan, photograph or any other paper is prescribed as under,-

For one copy ... Rs. 2.00 per page

For each additional copy ... Rs. 1.50 per page

In case the copy is to be reduced in size or enlarged within the limits of half size to double size, the charges will be twice the rates mentioned above.

²⁷²{Provided that in the event of official machine going out of order or it cannot cope with work load of the Copying Departments, the photo stat work of the Copying Department may be got done through a private firm on the terms and conditions which may be approved by the Chief Justice.}

(2) If and when any change in the scale of charges mentioned in sub-rule (1) becomes necessary, the Registrar may, with the approval of Chief Justice, make such change.

(3) The charges shall be payable in cash and Copying Stamps as may be determined by the Head Copyist under the directions of the Registrar.]

²⁷³[**888B - Copy of document/Order/Judgment in Braille script** - Where an application is made for a copy of any document/Order/Judgment in Braille script. Till availability of facility of preparing copies in Braille in the establishment, copy of such document/Order/Judgment shall be got prepared from out sourcing agency as per the direction issued by the Chief Justice.

271 : Added vide Notification No. 1/SRO Dated April 18, 1974 & published in Rajasthan Rajpatra No.19, Pt. 4-C dated 8.8.1974, Pg. No.152.

272 : Added vide Rajasthan Gazette Ordinance Part 4-C (i) dated 5.3.87 Page 285.

273 : Inserted vide Notification No. 06/SRO Dated October 03, 2023

Uncertified Copy of such Document/Order /Judgment in Braille script shall be provided to the applicant on the deposition of charges for transcription in Braille script on the rates and by procedure as prescribed by the Chief Justice from time to time.]

889. Rejection of application - If for any reason the copy applied for cannot be given, the application shall be rejected. The copy folios and stamps shall be returned to the applicant after taking his signature in the appropriate column of the Register of Applications and he shall be informed of the reason why the copy cannot be given. If, the application is received by post, the information shall be given to the applicant and the copy folios and stamps returned to him by unpaid post. If, however, any postage stamps have been filed with the application under Rule 874, they may be used for the purpose. A note thereof shall be made in the remarks column of the Register of Applications.

890. Destruction of copy folios and stamp papers which cannot be returned - If any copy folios and stamps are to be returned to the applicant personally under the next preceding Rule and the applicant does not appear within three days of the date on which his application is rejected, they may be sent to him by post provided that the necessary postage stamps have been deposited on his behalf for this purpose. Any copy folios and stamps which cannot be returned to the applicant or are received back as undelivered from the Post Office shall be destroyed under the orders of the Deputy Registrar after the lapse of a period of three months, the fact being noted in the remarks column of the register.

²⁷⁴[**891. Register of applications** - A Register of applications for copies and another Register of applications for copies disposed of shall be maintained by the Head Copyist in the prescribed form.]

892. Applications to be dealt with in serial order - All applications for copy shall be dealt with according to the serial numbers in the order of the dates of presentation, urgent applications being given priority over ordinary ones.

Any departure from this Rule shall be reported immediately to the Deputy Registrar with reasons for such departure and his orders shall be complied with.

893. Requisition for record -The Head Copyist shall promptly make proper entries in the Register of Applications for Copies. The Head Copyist shall send the applications to the official-in-charge of the records required who will enter each in the appropriate column of the Register his signature and the date and hour on which he received the application relating to him. The official-in-charge of the record shall without delay send such application, order and stamped paper and the record to the Head Copyist and shall take from the Head

274 : Substituted vide Rajasthan Gazette No. 159 dated 20.2.54 Part II Page 1705.

Copyist, in a book to be kept for the purpose, a receipt of the date and hour when such record was delivered to him; and the Head Copyist shall enter in the appropriate column of the Register the date and hour on which he received the aforesaid record.

894. Reference to Deputy Registrar - If any difficulty arises in the preparation or issue of a copy, the matter shall be referred to the Deputy Registrar for orders.

895. Notice of defective application - If an application for copy does not contain sufficient information to enable the record to be traced or if the fee paid is insufficient or the application is otherwise defective, the applicant shall be informed, if present, or a notice to that effect shall be affixed on the notice board.

If the application has been received by post, the information shall be communicated to the applicant by unpaid post.

If the defect is not removed or the deficiency not paid within one week, the application shall be rejected.

896. Delivery of copies to applicants - After a copy has been prepared, it shall be examined and certified to be a true copy by the superintendent of the Copying Department and each page of the copy shall be stamped with the seal of the Court.

At the end of the day, the Head Copyist shall cause all copies which have been duly certified and sealed to be delivered to the applicants, or where the requisite postage stamps have been deposited by the applicants for the purpose, to be sent to them by post, after making necessary entries in the appropriate column of the Register.

897. Notice of ready copies - (i) 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 possible, shall be delivered on the date so fixed.

(ii) If for any reason the copy is not ready for delivery on the date so fixed, the applicant shall be directed to attend on another date, when the copy may be expected to be ready for delivery.

(iii) If the copy is not ready and the applicant does not appear on the date fixed, notice of the next date fixed for the delivery of copy shall be sent to him by post, if he has deposited the necessary postal charges. If necessary postal charges have not been deposited, it shall be affixed on the notice board of the Court.

(iv) When a copy is ready, and the applicant or his authorised agent is present, the copy shall be given to him. If the applicant or his authorised agent is

not present, a notice over the signature of the Superintendent, Copying Department, shall be affixed to the notice board notifying that the copy is ready for delivery. If from the date of the fixing of the notice the applicant appears within 3 months, the copy shall, be delivered to him.

898. Destruction of copies which cannot be returned - Where a copy remains undelivered to the applicant for a period of three months after the date of affixation of the notice on the notice board under the next preceding Rule, it/shall be destroyed under the orders of the Deputy Registrar, an entry to that effect being made in the remarks column of the Register of Applications.

Where a copy sent to the applicant by post under Rule 896 is received back as undelivered, it shall similarly be destroyed if it is not taken delivery of by the applicant within a period of three months from the date on which it was received back by the office.

899. Delivery of urgent copies - In the case of urgent applications, copies shall be delivered to the applicant as far as possible not later than the end of the working day next after the day on which the application was presented, provided that the application is in order and the requisite fee has been duly paid.

900. Issue of copies of certain orders the same day - Copies of all orders passed by the Court granting bail or staying proceedings or execution or granting injunction or when so ordered by the Court shall on application and on payment of the prescribed charge be given to the Advocate for the parties on the very day on which such orders are passed and, if this be not possible, on the following day.

901. Sending copies, folios, etc. by post - (1) Where a communication may under this Chapter be sent to the applicant by unpaid post, it may be sent to him by pre-paid post, provided that applicant has previously deposited the necessary postage stamps for the purpose. If the postage stamps so deposited are sufficient to cover registration charges also, such communication may be sent to him by prepaid registered post.

(2) Where the postage stamps deposited by the applicant are insufficient for the purpose indicated by him, the copies folios and stamps or communication as the case may be, maybe sent to him in an insufficiently stamped cover.

(3) Where the applicant desires that any copies folios and stamps or communication be sent to him under registered cover, but the postage stamps deposited by him are insufficient to cover registration charges, such copies folios and stamps or communication, as the case may be, may be sent to him by ordinary post.

(4) Where the postage stamps deposited by the applicant are in excess of requirement, the unused postage stamps shall be returned to him in the same cover.

(5) Where any postage stamps cannot be returned to the sender, they may be used as service stamps after being entered in the stock book of service postage stamps.

(6) Where an unpaid or insufficiently paid cover is received back undelivered from the Post Office, the amount charged by the Post Office shall be debited under head "Contingencies".

CHAPTER XL

Arrangement, Preservation and Destruction of Records

Section A

Civil Cases

902. Division of Record into Parts - Each record in a civil case shall be divided into two parts to be called 'Part A' and 'Part B.'

903. General Index - Each paper, as it is filed, shall be entered in a general index and shall be marked with the letter A or B according to the part to which it belongs.

904. Parts 'A' & 'B' in Supreme Court Appeals - In the case of appeals to the Supreme Court, Part A shall consist of the following papers, namely—

- (1) General index.
- (2) Order sheet.
- (3) Application for leave to appeal.
- (4) Court's order refusing or granting certificate
- (5) Formal certificate granting leave to appeal.
- (6) Security bond and papers relating to cash deposit.
- (7) Compromise, waiver or confession of judgment.
- (8) Application for substitution of names and the order passed thereon.
- (9) Affidavits.
- (10) One copy of the printed record.
- (11) Letter forwarding the record to the Supreme Court.
- (12) Judgment of the Supreme Court.
- (13) All other orders of the Supreme Court.
- (14) Any other paper ordered by the Court to be included in Part 'A'.

All other papers shall be kept in Part B.

905. Part A & B in Civil Appeals etc. - In civil appeals, revisions and miscellaneous cases, part A shall consist of the following papers, namely—

- (1) General index.
- (2) Order sheet.
- (3) Memorandum of appeal or application.
- (4) Copy of decree or formal order under appeal or revision.
- (5) Notice with report of service in ex parte cases.
- (6) Memorandum of objections under rule 22 or 26 of Order XLI of the Code.
- (7) Objection or reply.
- (8) Order of remand under rule 25 of Order XLI of the Code.
- (9) Copy of findings on issues referred to the lower court for trial under rule 25 of Order XLI of the Code.
- (10) Application for substitution, addition or striking out of names of parties.
- (11) Deposition of a party or witness.
- (12) Order imposing a fine upon a witness under rule 12 of Order XVI of the Code.
- (13) Report, proceedings or examination of Commissioner.
- (14) Order of appointment, or removal, of a guardian or next friend.
- (15) Documents filed by parties.
- (16) Order impounding a document.
- (17) Affidavits.
- (18) Arbitration agreement.
- (19) Award of arbitrator.
- (20) Compromise, waiver or confession of judgment.
- (21) Court's judgment or final order along with one copy of the paper book, if any.
- (22) Court's decree.
- (23) Certificate of return of record.
- (24) Order of reference to the High Court.
- (25) Certificate of fees paid to Advocates.
- (26) Any other paper directed by the Court to be included in

part A. All other papers shall be kept in part B.

906. Destruction of part A - Part A shall be retained for a period of twelve years from the first day of January following the date of judgment or final order, or where there has been an appeal to the Supreme Court, from the date of communication of the judgment or final order of the Supreme Court and shall then be destroyed excepting (1) general index, (2) judgment with compromise, if any, on which the decree is based, (3) decrees and (4) unreturned documents. These papers shall be retained permanently.

907. Destruction of part B - With the exception of original translations made in First Appeals which shall be retained for a period of two years, papers in part B shall be retained for a period of one year from the first day of January following the date of judgment or final order, or where there has been an appeal to the Supreme Court, from the date of communication of the judgment or final order of the Supreme Court and then destroyed.

908. Original trials - In suits coming before the Court in the exercise of its ordinary or extraordinary original civil jurisdiction, the procedure prescribed for the preparation, preservation and destruction of records in subordinate civil courts shall be followed.

Section B

Matrimonial and Testamentary Cases

909. Divisions of Records in parts - The record, in a matrimonial suit or reference or a testamentary case shall be divided into two parts to be called parts A and B.

910. General Index - Each paper, as it, is filed, shall be entered in a general index and shall be marked with the letter A or B, according to the part to which it belongs.

911. Parts 'A' & 'B' - Part A shall consist of the following papers, namely—

(a) In matrimonial suits or references—

- (1) General index.
- (2) Order sheet.
- (3) Petition or application,
- (4) Written statement.
- (5) Issues.
- (6) Statements of parties and witnesses.
- (7) Documents filed by parties.
- (8) Judgment.
- (9) Decrees.
- (10) Any other paper directed by the Court to be included in part A.

(b) In testamentary cases—

- (1) General index.

- (2) Order sheet.
- (3) Petition for grant of probate or letters of administration with annexures A and B and copy of the will, if any.
- (4) Application including application for appointment or discharge of an executor, or for directions to the executor.
- (5) Affidavits including affidavit of valuation and affidavits of attesting witnesses.
- (6) Caveat.
- (7) Objection or written statement.
- (8) Issues.
- (9) Statements of parties and witnesses.
- (10) Documents filed by parties.
- (11) Judgment.
- (12) Decree.
- (13) Security or administration bond,
- (14) Probate or letters of administration.
- (15) Inventory.
- (16) Accounts.
- (17) Any other paper directed by the Court to be included in

part A. All other papers shall be placed in part B.

Original wills shall be kept separate in an iron safe, a note to that effect being made against the corresponding entry in the general index.

912. Destruction of papers in Matrimonial cases - In matrimonial suit—

(a) Part A shall be retained for a period of forty years from the first day of January following the date of final decision and shall then be destroyed excepting the general index, judgment and decrees, which shall be retained permanently.

(b) Part B shall be retained for a period of three years from the first day of January following the date of final decision and shall then be destroyed excepting applications for execution of decree and custody of children and orders of the Court passed thereon, which shall be retained for a period of twenty years.

913. Destruction of papers in Matrimonial References - In Matrimonial References—

(a) Part A shall be retained for a period of twelve years from the first day of January following the date of final decree and shall then be destroyed excepting general index and the judgment and decree, which shall be retained permanently.

(b) Part B shall be retained for a period of two years from the first day of January following the date of final decree and then destroyed.

914. Destruction of papers in Testamentary cases - In Testamentary cases—

(a) Part A shall be retained for a period of forty years from the first day of January following the date of final decision and shall then be destroyed excepting the general index, petition or application, the judgment and decree, probate or letters of administration and the original will, which shall be retained permanently.

(b) Part B shall be retained for a period of three years from the first day of January following the date of final decision and shall then be destroyed.

Section C

Criminal

915. Division of Records into parts - The record in a criminal case shall be divided into two parts to be called part A and part B.

916. General Index - Each paper, as it is filed, shall be entered in a general index, and shall be marked with the letter A or B according to the part to which it belongs.

917. Parts 'A' & 'B' - Part A shall consist of the following papers, namely—

(a) in Original trials—

- (1) General index.
- (2) Record of the lower court.
- (3) Paper-book.
- (4) Record of evidence.
- (5) Commission, the return thereto and depositions.
- (6) Orders by the presiding Judge.
- (7) Warrant or other paper returned on execution of sentence.
- (8) Copy of order, commuting a sentence or suspending the execution thereof or remitting punishment.
- (9) Unreturned Exhibits.
- (10) Any other paper directed by the Court to be included in part A.

(b) In appeals, revisions and references—

- (1) General Index.
- (2) Grounds of appeal, application for revision or reference.

- (3) Copy of the lower court's Judgment filed.
- (4) Notice with report of service,
- (5) Judgment.
- (6) Warrant.
- (7) Printed paper book, if any.
- (8) Any other paper directed by the Court to be included in

part A. All other papers shall be placed in part B.

918. Destruction of parts A - Part A shall be retained for a period of forty years from the first day of January next following the date of final decision and shall then be destroyed with the exception of the general index and the judgment of the Court which shall be retained permanently.

919. Destruction of part B - Papers in part B shall be destroyed after one year from the first day of January next following the date of the final decision of the case.

General

920. Cases in which there has been an appeal to the Supreme Court - In a case in which an appeal has been filed in the Supreme Court, no paper shall be destroyed until the judgment or final order of that Court is communicated to the Court and the papers shall thereafter be destroyed in accordance with these Rules, the period of destruction being counted as from the first day of January following the date of communication of such judgment or final order.

921. Notice to withdraw documents - A notice shall be fixed up in a conspicuous part of the Court-house stating that documents filed in a case which may be returned having regard to the provisions of rule 9 of Order XIII of the Code or section 294 of the Indian Succession Act, 1925, should be withdrawn as soon as the case has been finally disposed of and that if they are left in Court they will be kept at the risk of the owner.

922. Court-fee stamps to be mutilated - The Record-keeper when putting papers aside for destruction shall mutilate all court-fee stamps affixed to them in such manner as to make it impossible for them to be used again.

923. Papers destroyed to be noted in the index - A note of every record destroyed shall be made at the time of destruction in the general index of each case under the signature of the Record-keeper.

924. Disposal of weeded papers - All weeded documents and papers shall be disposed of in the following manner, namely-

(a) Confidential papers including notes and orders on administrative matters and stamps and court fee labels shall be torn into pieces and burnt in the presence of the Court Officer.

(b) All other papers including original documents and certified copies shall be torn across and then sold as waste paper.

(c) Spare paper books shall be sold as waste paper without being torn.

The proceeds of the sale of waste paper shall be credited to Government.
