THE BOMBAY HIGH COURT ORIGINAL SIDE RULES, 1980

(Amended upto 20th October, 2022)

TABLE OF CONTENTS

Chapter No.	Particulars	Rules	Page No.
Part - I	**Advocates and Registered Clerks**	01 - 25	1
Part - II	**Rules relating to the Jurisdiction of the High Court on its Original Side**		
Chapter – I	Original Jurisdiction	26 – 28	19
Chapter – II	Vacations and Holidays	29 - 31A	22
Chapter - III	Rules applicable to all offices on the original side.	32 – 41	23
Chapter – IV	Institution of the Suit	42 – 62	25
Chapter – V	Minors and Persons of Unsound mind	63 – 68	31
Chapter – VI	Writ of Summons	69 – 87	33
Chapter – VII	Written Statement, Set-Off and Counter-Claim	88 – 106	37
Chapter – VIII	Third party procedure	107 – 120	41
Chapter – IX	Chamber work [*Deleted*]	121 – 139	46
Chapter – IXA	Interim Applications	121 IXA - 134 IXA	47
Chapter – X	Notices of Motion [*Deleted*]	140 – 149	52
Chapter - XI	Matters arising pending Suit	150 - 189A	53
Chapter - XII	Affidavits	190 – 209	66
Chapter – XIII	Suits by Indigent persons	210 – 220	70
Chapter – XIV	Summary suits	221 – 227	73
Chapter – XV	Commercial causes	228 – 236	75
Chapter – XVI	Administration suits	237	77
Chapter - XVII	Originating summons	238 – 261	78

Chapter No.	Particulars	Rules	Page No.
Chapter – XVIII	Computation of time and power to enlarge or abridge time.	262 – 266	84
Chapter – XIX	Search and certified copies	267 -273	85
Chapter – XX	Proceedings at the hearing of suits and upto and inclusive of Decrees, Decrees and orders passed in Courts	274 – 306	88
Chapter – XXI	Arrest and attachment before Judgment	307 – 312	97
Chapter – XXII	Execution of Decrees and orders	313 – 344	98
Chapter – XXIII	Garnishee proceedings	345 – 354	106
Chapter – XXIV	Guardians of minors and of persons of unsound mind	355 – 364	110
Chapter – XXV	Receipts and payments by officers of the Court	365 – 368	113
Chapter - XXVI	Testamentary and intestate Jurisdiction	369 – 436	115
Chapter – XXVII	Security	437 – 444	129
Chapter – XXVIII	Office of the Sheriff of Bombay	445 – 486	131
Chapter – XXIX	Office of the Commissioner for taking Accounts	487 – 588	142
	- Sale of Property		
	- Settling proclamation of sale in execution		
	- Miscellaneous		
Chapter – XXX	Office of the Receiver	589 – 599	169
Chapter – XXXI	Taxation and Advocate's fee	600 – 610	174
Chapter – XXXII	Office of the Chief Translator and Interpreter	611 – 635	182
Chapter – XXXIII	Rules for the issue of Writs under Article 226 of Constitution other then Habeas Corpus	636 - 648A	188
Chapter – XXXIV	Rules relating to reference under The Land Acquisition Act, 1894 (Act No. I of 1894)	649 – 655	194
Chapter – XXXV	Rules relating to reference and applications under section 256 of The Income Tax Act, 1961 (Act No. 43 of 1961)	656 - 669B	196

TOP

Chapter No.	Particulars	Rules	Page No.
Chapter – XXXVI	Rules relating to reference and applications under section 27 of The Wealth Tax Act, 1957 (Act No. 27 of 1957)	670 - 681B	203
Chapter – XXXVII	Rules relating to reference and applications under section 64 of The Estate Duty Act, 1953 (Act No. 34 of 1953)	682 – 693	207
Chapter – XXXVIII	Rules relating to references and applications under section 26 of The Gift-Tax Act, 1958 (Act No. 18 of 1958)	694 - 705B	210
Chapter – XXXIX	Rules relating to references and application under section 61 of the Bombay Sales Tax Act, 1959 (Act No. 51 of 1959)	706 – 718	214
Chapter – XL	Rules under the Banking Regulation Act, 1949 (Act No. 10 of 1949)	719 – 771	217
Chapter – XLI	Rules under The Arbitration Act, 1940 (Act No. 10 of 1940)	772 – 789	230
Chapter – XLII	Rules under The Arbitration (Protocol and Convention) Act, 1937 (Act No. 6 of 1937)	790 – 796	236
Chapter – XLIII	Rules under The Foreign Awards (Recognition and Enforcement) Act, 1961 (Act No. 45 of 1961)	797 – 803	238
Chapter - XLIII-A	Rules relating to Arbitration and Conciliation Act, 1996	803A - 803K	240
Chapter – XLIV	Rules under The Indian Divorce Act, 1869 (Act No.4 of 1869)	804 – 823	244
Chapter – XLV	Rules under The Trade and Merchandise Marks Act, 1958 (Act No. 43 of 1958)	824 – 835	250
Chapter – XLVI	Rules under The Insurance Act, 1938 (Act No. 4 of 1938)	836 – 844	253
Chapter – XLVII	Rules under The Transfer of Property Act, 1882 (Act No. 4 of 1882)	845 – 856	255
Chapter – XLVIII	Rules under The Indian Trusts Act, 1882 (Act No. 2 of 1882)	857	258

TOP

Chapter No.	Particulars	Rules	Page No.
Chapter – XLIX	Rules under The Powers of Attorney Act, 1882 (Act No. 7 of 1882)	858 – 861	259
Chapter – L	Rules relating to cases under The Chartered Accounts Act, 1949 (Act No.37 of 1949)	862 – 870	261
Chapter – LI	Review	871 – 875	264
Chapter – LII	Appeals	876 – 909	267
Chapter - LIII	Appeals to the Supreme Court	910 – 923	277
Chapter - LIII-A	Transfer of cases under Article 139-A of The Constitution	923A - 923F	280
Chapter - LIV	Audit of Accounts	924 – 926	281
Part III	**Admiralty Jurisdiction Rules for regulating The Procedure and Practice in Cases brought before The High Court under The Colonial Courts of Admiralty Act, 1890 (53-54 Victoria Ch.27)**	927 – 968	282
Part IV	**Criminal Jurisdiction - Constitution of Court and Sitting**	969 – 984	283
Part V	**Miscellaneous**	985 – 991	288
Chapter – LV	Rules relating to reference and applications under section 130 of The Customs Act, 1962 (Act No. 130 of 1962)	992 – 1003	290
Chapter – LVI	Rules relating to references and applications under section 35 of The Central Excises and Salt Act, 1944	1004 – 1015	293
Chapter – LVII	Rules relating to reference and applications under section 82 of The Gold (Control) Act, 1986 (Act No. 82 of 1968)	1016 – 1027	297
Chapter – LVIII	Rules to regulate proceedings for Contempt under Article 215 of The Constitution of India and The Contempt of Courts Act, 1971	1028 – 1053	300
Chapter - LVIII-A	Norms for presentation and conduct of proceedings in person by parties		307
Chapter – LIX	Rules relating to cases under The Company Secretaries Act, 1980	1054 -1062	309

TOP

Chapter No.	Particulars	Rules	Page No.
Chapter – LX	Special Jurisdiction : Admiralty Jurisdiction	1063 – 1110	312

SCHEDULE OF FORMS

Form No.	Details	Page No.
1	Application for Registration	320
2	Proposal to designate Advocate as Senior Advocate	321
2A	Performa of Bio-data	322
3	Verification of plaints and other pleadings	323
4	Appearance, of party in person	323
5	Vakalatnama of Advocate or Supreme Court Advocate	324
6	Petition to appoint guardian ad-litem	325
7	Notice of application to appoint guardian-ad-litem	326
8	Writ of summons in a matrimonial suit other than a suit under the Indian Divorce Act, 1869	327
9	Writ of Summons in a suit other than a Summary Suit or a Matrimonial Suit	328
9A	-	331
10	Writ of Summons in a Summary Suit	333
11	Summons for Judgment in Summary Suit	334
12	Chamber Summons	335
13	Notice of Motion	336
14	Notice under Order XXX, Rule 5 of the Code of Civil Procedure	337
15	Notice of Counter-claim	338
16	Notice of payment with denial of liability	339
17	Third Party Notice : Re: Contribution or Indemnity	340
18	Third Party Notice : Re : Question or Issue	342

TOP

Form No.	Details	Page No.
19	Confession of Defence	343
20	Order for dismissal or withdrawal of suit	343
21	Affidavit of documents under Order XI, Rule 13 of the Code of Civil Procedure	344
22	Summons to witness	345
23	Originating Summons	346
24	Commission under section 76, Order XXVI, Rule 4 of the Code of Civil Procedure	347
25	Order appointing Receiver	349
26	Order of References to arbitration	350
27	Order of Reference in Administration Suit	352
28	Order of reference under Order XXVI, Rules 11 and 12 of the Code of Civil Procedure	353
29	Decree on Commissioner's Report	354
30	Application to Draw up money decree	355
31	Money Decree	356
32	Decree under Order XXXVII of the Code of Civil Procedure	357
33	Money decree in suit and on Third Party Notice	358
34	Preliminary decree on Mortgage, Mortgagor in possession	359
35	Preliminary decree on Mortgage, by deposit of title deeds	361
36	Preliminary decree on Mortgage, Mortgagee in possession	363
37	Final decree in foreclosure suit	365
38	Final decree in suit for sale	366
39	Decree of the Appellate Court, dismissing Appeal	368
40	Warrant of arrest before judgment under Order XXXVIII, Rule 1 of the Code of Civil Procedure	369

TOP

Form No.	Details	Page No.
41	Security Bond under Order XXXVIII, Rule 2 of the Code of Civil Procedure	370
42	Warrant of committal in the case of arrest before judgment	371
43	Warrant of attachment before judgment under Order XXXVIII, Rule 5 of the Code of Civil Procedure	372
44	Notice under Order XXI, Rule 2 of the Code of Civil Procedure	373
45	Application for Execution under Order XXI, Rule 11(2) of the Code of Civil Procedure	374
46	Notice under Section 145 of the Code of Civil Procedure	375
47	Garnishee Notice	376
48	Notice under Order XXI, Rule 16 of the Code of Civil Procedure	377
49	Notice under Order XXI, Rule 22 of the Code of Civil Procedure	378
50	Notice under Order XXI, Rule 34 of the Code of Civil Procedure	379
51	Notice under Order XXI, Rule 37 of the Code of Civil Procedure	380
52	Warrant of arrest after judgment under Order XXI, Rule 38 of the Code of Civil Procedure	381
53	Warrant of committal in execution of decree	382
54	Warrant of attachment of movable property in the possession of the judgment-debtor under Order XXI, Rule 43 of the Code of Civil Procedure	383
55	Warrant of attachment of a debt not secured by negotiable instrument under Order XXI, Rule 46 of the Code of Civil Procedure	384
56	Warrant of attachment of shares in public companies under Order XXI, Rule 46 of the Code of Civil Procedure	385
57	Warrant of attachment of movable property in possession of third party under Order XXI, Rule 46 of the Code of Civil Procedure	386

TOP

Form No.	Details	Page No.
58	Order to attach salary of public officer, etc. under Order XXI, Rule 48 of the Code of Civil Procedure	387
59	Attachment of partnership property under Order XXI, Rule 49 of the Code of Civil Procedure	388
60	Warrant of attachment of negotiable instrument under Order XXI, Rule 51 of the Code of Civil Procedure.	389
61	Notice under Order XXI, Rule 52 of the Code of Civil Procedure.	390
62	Notice under Order XXI, Rule 53(1) (a) and (6) of the Code of Civil Procedure.	391
63	Notice under Order XXI, Rule 53(1)(b) of the Code of Civil Procedure.	392
64	Notice under Order XXI, Rule 53(4) of the Code of Civil Procedure.	393
65	Warrant of attachment of immovable property under Order XXI, Rule 54 of the Code of Civil Procedure.	394
66	Warrant for sale of movable property under Order XXI, Rule 64 of the Code of Civil Procedure.	395
67	Warrant for sale of immovable property under Order XXI, Rule 64 of the Code of Civil Procedure	396
68	Conditions of sale of immovable property	397
69	Conditions of sale of movable property other then negotiable securities etc.	400
70	Bidding paper	401
71	Certificate showing persons who have applied for execution of money decree	402
72	Notice to judgment-creditor	403
73	Order for payment by Sheriff	404

TOP

Form No.	Details	Page No.
74	Warrant of possession under Order XXI, Rule 35 and 36 of the Code of Civil Procedure	405
75	Warrant of possession under Order XXI, Rules 95 and 96 of the Code of Civil Procedure	406
76	Commissioner's Summons to judgment-debtor for settling proclamation of sale	407
77	Notice to persons having claims on attached property	408
78	Sheriff's proclamation of sale	409
79	Instruction to guardians	411
80	Bond by guardian	413
81	Receiver's Account	414
82	Notice under section 18 of the Land Acquisition Act, 1894	415
83	Notice under section 30 of the Land Acquisition Act, 1894	416
84	Special Case : Section 13 (b) of the Arbitration Act, 1940	418
85	Notice under the Indian Divorce Act to appear and answer	419
86	Notice to apply for leave to intervene	420
87	Notice under section 21 of the Chartered Accountants Act, 1949	421
88	Notice under section 22-A (1) of the Chartered Accountants Act, 1949	422
89	Notice under section 22-A (2) of the Chartered Accountants Act, 1949	423
90	Memorandum of Appeal under Order XLI, Rule 1 of the Code of Civil Procedure	424
91	Notice under Order XLI, Rule 14 of the Code of Civil Procedure	425

TOP

Form No.	Details	Page No.
92	Security Bond under Order XLI, Rule 5 of the Code of Civil Procedure	426
93	Petition for grant of a certificate for appeal to the Supreme Court	427
94	Notice of application for certificate for an appeal to the Supreme Court	429
95	Order granting certificate for appeal to the Supreme Court	430
96	Notice of lodgment of petition of appeal in the registry of the Supreme Court	431
	FORMS RELATING TO TESTAMENTARY AND INESTATE JURISDICTION	
97	Petition for probate of a Will	432
98	Schedule of property of the deceased	434
99	Schedule of debts etc of the deceased	436
100	Schedule of trust property held by the deceased	437
101	Executor's oath	438
102	Affidavit of the attesting witness.	439
103	Petition for Letters of Administration	440
104	Administrator's oath	442
105	Petition for Letters of Administration with Will annexed	443
106	Administrator's oath in the case of Letters of Administration with the Will annexed	445
107	Petition by Constituted Attorney for Letters of Administration with copy of authenticated copy of the Will annexed	446
108	Administrator's oath in case where Letters of Administration with copy of authenticated copy of the Will are granted to constituted Attorney	448

TOP

Form No.	Details	Page No.
109	Petition for Judge's Order to apply for Letters of Administration for the use and benefit of a minor	449
110	Petition for Succession Certificate	451
111	Schedule of debts and securities of the deceased	453
112	Petitioner's oath in the case of Succession Certificate	454
113	Subpoena to bring in Will etc	455
114	Citation to accept or refuse executorship	456
115	Citation to see proceedings	457
116	Caveat	458
117	Notice of the filing or affidavit in support of caveat	459
118	Administration Bond	460
119	Administration Bond of a Constituted Attorney	461
120	Bond in the case of Succession Certificate	463
121	Probate	464
122	Letters of Administration	466
123	Letters of Administration with the will annexed	468
124	Succession Certificate	470
125	Extension Certificate	471
126	Succession Certificate to the guardian of a minor	472
127	Order under section 10 of the Administrator-General Act, 1963	473
128	Letters of Administration granted to the Administrators-General	474
129	Letters of Administration with the will annexed granted to the Administrator General	475

TOP

Form No.	Details	Page No.
130	Certificate that no application has been made for probate or letters of administration	476
131	Citation to file inventory and account	476
132	Certificate of filing inventory and account	477
133	Certificate of amended value of the estate, to be forwarde3d to the Superintendent of Stamps	477
134	Notice under section 360 and 367 of the Indian Succession Act	478
135	Oaths or affirmations	479
136	Notice under section 21 of the Company Secretaries Act, 1980	480
137	Notice under section 30 of the Company Secretaries Act, 1980	481
138	Notice under section 31 of the Company Secretaries Act, 1980	482
139	Admiralty Form No. 139	483
140	Admiralty Form No. 140	485
141	Admiralty Form No. 141	486
142	Admiralty Form No. 142	487
143	Admiralty Form No. 143	489
144	Admiralty Form No. 144	490
	Tables of Fees	492

APPENDIX I

Rules relating to references and Applications under section 25 of the Expenditure Tax Act, 1957 (Act No. 29 of 1957)	502

APPENDIX II

Rules relating to Election Petitions under the Representation of the People Act, 1951 (Act No. 43 of 1951)	505

TOP

APPENDIX III	Page No.
Rules under the Destruction of Records Act, 1917 (Act No. 5 of 1917)	515

APPENDIX IV

Rules and Forms for regulating the Procedure of the Parsi Chief Matrimonial Court at Bombay	577

APPENDIX V

Rules of the High Court at Bombay under the Maharashtra Vexatious Litigation (Prevention) Act, 1971	598

APPENDIX VI

Rules framed by the High Court under section 34(1) of the Advocates Act, 1961	600
Letters Patent (Bombay)	610
Scheme for Appointment of Arbitrators by the Chief Justice of Bombay High Court	626
The Bombay High Court Process Fees Rules, 2006	630
The Bombay High Court Process Fees (Repeal) Rules, 2014	635
The Bombay High Court Right to Information (Revised) Rules, 2009	636

* * * * *

TOP

THE RULES OF THE HIGH COURT OF JUDICATURE AT BOMBAY

ORIGINAL SIDE

The Hon'ble the Chief Justice and Judges of the High Court of Judicature at Bombay are pleased to make the following rules, set out in Parts I, II, III, IV and V hereunder.

PART I
ADVOCATES AND REGISTERED CLERKS

Rule Nos.

1. Appearance of Advocates of the other High Courts on the Original Side. – An Advocate of any other High Court who is not on the Roll of Advocates of the Bar Council of Maharashtra may, with the permission of the Honourable the Chief Justice, appear and plead in any particular suit or matter on the Original Side of the High Court.

Provided that an Advocate on the Roll of Advocates of the Bar Council of Maharashtra, whose name is entered in the Registrar under Rule 3, is also instructed to appear with the said Advocate, Save as aforesaid no such Advocate shall practice on the Original Side of the High Court.

2. Definitions :- In Rules 3 to 19, unless the context otherwise requires :-

(a) "Advocate" includes a firm of Advocates and means an Advocate or firm of Advocates acting for any party in a suit or proceeding, other than those referred to in Rule 5, in the High Court;

(b) "Client" means a party in a suit or proceeding referred to in sub-clause (a) above; and

(c) "High Court" means the Original Side of the High Court at Bombay.

3. Application by Advocate for registration :- An Advocate, desiring to act for any party in any suit or proceeding, other than those referred to in rule 5 below, in the High Court, shall

apply to the Prothonotary and Senior Master to enter his name in the Register of Advocates. Such an application shall be in Form No. 1 and shall be signed by the Advocate or in case of a firm, by all the partners of the firm.

4. Office to maintain register: - The Office of the Prothonotary and Senior Master shall maintain a Register of Advocates, containing the particulars mentioned in Form No. 1 and an alphabetical index showing the names of the Advocates. Such register will be available for inspection to parties or Advocates.

5. Advocate shall not act if not registered :- No advocate, other than one whose name is entered in the Register of Advocates, shall be entitled to act for any person in the High Court except in the following proceedings :-

(i) Applications under Articles 226 of the Constitution;
(ii) Income-tax, Wealth-tax, Gift-tax, Expenditure-tax, Estate Duty or Sales Tax matters;
(iii) References under the Land Acquisition Act, 1894;
(iv) Cases under the Chartered Accountants Act, 1949;
(v) Insolvency matters.

6. Office Address :- (i) An Advocate shall notify to the Prothonotary and Senior Master and address of an office, within the limits to which the Ordinary Original Civil Jurisdiction of the High Court extends, which address will be the address of the service. Such office shall be kept open at least between 10.30 a.m. to 5.30 p.m. on week days and between 10.30 a.m. to 3.00 p.m. on Saturdays, except on Court holidays with one or more Clerk present to accept correspondence and documents. All notices, summonses, orders or other documents, which do not require personal service on the client, shall be deemed to be sufficiently served on the advocate if delivered to the Clerk at the address for services. An address shall continue as such till the Advocate duly notifies to the Prothonotary and Senior Master a change of address.

(ii) If it is brought to the notice of the Prothonotary and Senior Master that the location of the Office of any Advocate is not suitable for the office of an Advocate, the Prothonotary and Senior Master after giving an opportunity to the Advocate concerned of

being heard and after recording reasons in waiting, direct that the Advocate shall within a specified time notify another location for his office and obtain the Prothonotary approval thereto within such specified time. If within such specified time or such further time as may be granted by the Prothonotary and Senior Master, the Advocate fails to notify the new address of his office and obtain an approval of the Prothonotary and Senior Master thereto as aforesaid, the Prothonotary and Senior Master shall make a report to the Judge in Chambers for such directions in the matter as the Judge may deem proper and give an intimation to the Bar Council of the Report made. The Judge in Chambers, after hearing the Advocate concerned, may pass appropriate orders in the matter, including an order removing the name of the Advocate from the Register referred to in Rule 4 above.

7. Joint Vakalatnama: - Where two or more Advocate file a joint vakalatnama, the same should show the address for service of any one Advocate, which should be the address for service of the Advocates for the suit or proceeding.

8. Registered Clerk :- **(1)** An Advocate may employ one or more Clerks to attend the Office of the Prothonotary and Senior Master for presenting and received any papers on behalf of the said Advocate :

Provided that the said Clerk has been registered with the office of the Prothonotary and Senior Master on application made to the Prothonotary and Senior Master, for the purpose:

Provided further that the said Clerk gives an undertaking that he shall attend the Office of the Prothonotary and Senior Master regularly.

(2) No clerk employed by an Advocate shall be allowed access to the Offices of the Court, or to present and receive papers or to act, on behalf of Advocate, in formal matters unless he is registered as a Clerk of that Advocate.

(3) An Advocate, who does not employ a clerk as stated hereinabove, shall attend the office of the Prothonotary and Senior Master, personally and regularly for presenting and receiving his papers and he will be deemed to have notice of all the communications concerning him and placed on the Notice Board of the Office.

9. Removal of name of Clerk from Register:- The Prothonotary and Senior Master may declare to register any clerk who in his opinion is not sufficiently qualified or is otherwise unsuitable to be registered as such and may for reasons to be recorded in writing, remove from the Register the name of any clerk after giving him and his employer an opportunity to show cause against such removal.

10. Advocate to keep Accounts: - Every Advocate shall keep such books of accounts, as will be necessary to show and distinguish in connection with his practice as an Advocate –

(a) Moneys received from or on account of and moneys paid to or on account of each of his clients; and

(b) the moneys received and the moneys paid on his own account.

11. Obligation to pay money into a "client account":- Every Advocate who holds or receives money on account of a client (save money hereinafter expressly exempted from the application of this Rule) shall forthwith pay such money to a current or deposit account at bank to kept in the name of the Advocate in the title of which the word, "client" shall appear (hereinafter referred to as "client account"). An Advocate may keep one client account or as many such accounts as he thinks fit:

Provided that when an Advocate receives a cheque or draft representing in part money belonging to the client and in part money due to the Advocate, he may, where practicable, split the cheque or draft and pay to the client account that part only which represents money belonging to the client. In any other case he shall pay the whole of such cheque or draft into the client account.

12. What money to be paid into a "client account":- No money shall be paid into a client account other than –

(a) money held or received on account of a client;
(b) such money belonging to the Advocate as may be necessary for the purpose of opening or maintaining the account;
(c) money for replacement of any sum which may by mistake or accident have been drawn from the account in contravention of Rule 13 of these rules;

(d) a cheque or draft received by the Advocate representing in part money belonging to the client and in part money due to the advocate when such cheque of draft has not been split as provided by Rule 11 hereof.

13. What money to be withdrawn from a client account: - No money shall be drawn from a client account other then –

(a) money properly required for payment to or no behalf of a client or for or towards payment of a debt due to the Advocate from a client or moneys drawn on client's authority, or money in respect of which there is a liability of the client to the Advocate, provided that money so drawn shall not in any case exceed the total of the money so held for the time being for such client ;

(b) such money belonging to the Advocate as may have been paid into the client account under Rule 12(b) or 12 (d) of these rules;

(c) money which may by mistake or accident have been paid into such account in contravention of Rule 12 of these rules.

14. Inapplicability of Rules 11, 12 and 13 in certain cases: - Rules 11, 12 and 13 shall not apply to money which –

(a) the client authorises and Advocate in writing to withhold from a client account,

(b) an Advocate pays into a separate account opened or to be opened in the name of a client or some person named by that client or the duly authorized agent of client;

(c) in the ordinary course of business upon receipt is paid on behalf of the client a third party;

(d) is upon receipt paid to the client;

(e) is paid to an Advocate expressly on account of costs;

(f) the Bombay Bar Council of Maharashtra, upon an application made to them writing by an Advocate, specifically authorizes in writing to be withheld or withdrawn from a client account.

15. Production of Accounts for inspection: - In order to ascertain whether the above rules have been complied with the Court may require any Advocate to produce before the Prothonotary and Senior Master his books of account, bank pass-book, statements of account, vouchers and any other necessary documents for inspection. On a report from the

Prothonotary and Senior Master, if after hearing the Advocate, the Court is of the opinion that the name of such Advocate be removed from the Register permanently or for some period, it may direct accordingly and may further direct the Prothonotary and Senior Master to report the name of the Advocate to the Bar Council for necessary action.

16. Right to lien, set-off etc. not affected:- Nothing in Rules 10 to 14 shall deprive an Advocate of any recourse or right, whether by way of lien, set-off, counter-claim, charge or otherwise, against moneys standing to the credit of a client account.

17. Appearance in pending cases to be treated as vakalatnama:- If in a suit or proceeding pending on 31st December 1976, in the High Court, an Attorney or firm of attorneys have filed an appearance and the said Attorneys or in the case of firm, all the partners thereof are also enrolled as advocates of the Bar Council of Maharashtra, the said Attorney or firm shall continue to represent the party for whom the appearance was filed, unless proper discharge is obtained and shall be allowed to act, appear and Plead in the matter as an Advocate for the party without filing a vakalatnama.

18. Rules in addition to the Rules framed otherwise: - The Rules In part I are in addition to the Rules framed by the High Court under section 34(1) of the Advocates Act, 1961, and printed in the Appendix VI to these rules.

19. Reference to attorney to mean Advocate: - In the Rules and Forms of the Bombay High Court (Original Side) in its several jurisdictions, unless the context otherwise requires the reference to an Attorney, meaning a Solicitor wherever it occurs shall mean a reference to Advocate.

20. Certificate as an attorney :- An Attorney who was on the Roll of Attorneys of this Court may, on payment of a fee of Rs.5 in Court fee stamps, obtain a certificate under the signature of the Prothonotary and Senior Master and the seal of the Court that his name was borne on the Roll of Attorneys of this Court.

21. Dress of Advocates: - Advocates, appearing before the Court shall wear following as part of their dress which shall be sober and dignified:-

(1) Advocates other then lady Advocates -

(a) Black buttoned up coat, chapkan, achkan, black sherwani and white bands with Advocates Gowns, or

(b) Black open breast coat, white shirt, white collar, stiff or soft, and white bands with Advocates' Gowns.

In either case, long trousers (white, black or black striped or grey or Dhoti.)

[1][(2) Dress of Lady Advocates –

(a) Saree or skirt of white, black, grey or other sober colour;

AND

(b) Full or half-sleeved collared blouse of white, black, grey or other sober colour and white bands ;

OR

(c) Salwar Kameez or western dress of white, black, grey or any other sober colour with collar and white bands ;

Wearing of black jacket shall be optional. ".

22. Advocate not to appear and plead for parties on both sides: - No advocate shall appear and plead for parties on both sides of the record in a suit or matter even if the interest of such parties be the same.

23. Advocate for the Official Liquidator not to act, appear or plead for any other party in matters arising in winding up of Company :- No Advocate who is appointed to assist the Official Liquidator of a Company in the performance of his duties under section 181 of the Indian Companies Act, 1913, or section 459 of the Companies Act, 1956, shall except with the leave of the Court, act, appear or plead for any creditor or debtor or contributory of such company or for any third party in any matter or proceeding, whether civil or criminal arising out of or in the course of the winding up of such Company.

[2]**[23A.** Strike resorted to in Court or abstention of work from Court by way of protest by an Advocate or group of Advocates or any Bar Association shall be deemed as an act which tends to interfere with the administration of justice.

1 .Sub-rule (2) was substituted by G.N. dated 16.3.1995
2 . Inserted by G.N. No. G/Amend/12387, dated 30.8.2007, See M.G.G. Pt. IV-C, Pg.334.

23B. any Advocate resorting to strike as per Rule 23A, will be dealt with in accordance with law.

23C. In exception cases where dignity, integrity and independence of the bar and/or judiciary are at strike, the President of the Bar Association of the High Court in consultation with the Chief Justice and in case of Subordinate Court the President of the concerned Bar Association, in consultation with the Principal Judge of the concerned District, may express protest by abstention from work which shall not be for more than one (1) day.

Provided further that the Chief Justice in case of the High Court and the Principle Judge of the concerned District in case of the Subordinate Courts will determine the issues after obtaining the view of the Chairman, Bar Council of Maharashtra and Goa, if necessary, as regards involvement of dignity, integrity or independence of the Bar and/or the Judiciary and the degree and adequacy of degree thereof to call for abstention from work, and the decision of the Chief Justice in the case of High Court and the Principal Judge of the concerned District in the case of subordinate Courts shall be final.]

Senior Advocates

[1][24. RULES FRAMED UNDER SECTION 16(2) OF THE ADVOCATES ACT, 1961

1. ***Short title and Commencement.*—(*a*)** These Rules shall be called the Bombay High Court (Designation of Senior Advocates) Rules, 2018.

(*b*) These Rules shall come into force on the date of publication in the *Official Gazette*.

2. *Definitions.*—In these Rules, unless the context otherwise requires,—

(*a*) "Chief Justice" means the Chief Justice of High Court of Bombay.

(*b*) "High Court" means the High Court of Bombay.

(*c*) "Permanent Committee for Designation of Senior Advocates" means the committee headed by the Hon'ble the Chief Justice and consists of the two most senior Judges of the High Court, the learned Advocate-General and one nominated member of the Bar.

1 . Amended by Notification No. P.3603/2018, dated 25.10.2018.

(*d*) "Permanent Secretariat" means the Secretariat headed by the Registrar-General of the High Court, and of which the Registrar (Judicial-I) of the High Court shall be the Secretary.

(*e*) "Senior Advocate" means Advocate designated as Senior Advocate under Section 16(*2*) of the Advocates Act, 1961.

(*f*) "Stakeholder" means and includes every person directly concerned with or affected by the designation of any Advocate as a Senior Advocate of the High Court.

3. *Permanent Committee.—* (*a*) All matters relating to designation of Senior Advocates in the Bombay High Court shall be dealt with by a Permanent Committee to be known as the Permanent Committee for Designation of Senior Advocates.

(*b*) The composition of the Permanent Committee shall be as defined in Rule 2(c) above.

(*c*) The Permanent Committee will be assisted by a Permanent Secretariat as defined in Rule 2(d) above.

(*d*) The Permanent Committee will meet at least twice in each calendar year.

4. ***Designation as a Senior Advocate.—*** An Advocate who has actively and actually practiced for not less than 10 years in the Bombay High Court may be considered for being designated as Senior Advocate either—

(a) On a written recommendation from the Chief Justice or any permanent Judge of the High Court of Bombay to the Permanent Secretariat, that, in the opinion of the Chief Justice, or of such other permanent Judge, by virtue of the advocate's ability, experience, standing at the Bar, or

(*b*) On a proposal for designation as a Senior Advocate by two previously designated Senior Advocates of the Bombay High Court; or

(*c*) On application by an advocate, endorsed by two designated Senior Advocates of the

Bombay High Court.

5. *Procedure for designation of Senior Advocates.*—(*a*) Every proposal/application for designation as a Senior Advocate shall be submitted in the month of June and December of each year.

(*b*) Every proposal / recommendation for designation as a Senior Advocate shall be in the **Form I** appended to these rules.

(*c*) Every such proposal shall be accompanied by an application in **Form II** appended to these rules.

(*d*) No Senior Advocate shall propose the names of more than two advocates for designation in one calendar year.

(*e*) Every advocate preferring an application for designation as a Senior Advocate, shall submit his application as per **Form II,** endorsed by two designated Senior Advocates as per **Form I** appended to these rules.

(*f*) Along with the proposal and application the Advocate shall append his certificate that he has not applied to any other High Court for being designated as a Senior Advocate and that his application has not been rejected by the High Court within a period of two years prior to the date of the proposal or application.

(*g*) All proposals and applications for designation of an advocate as a Senior Advocate shall be submitted to the Permanent Secretariat, which shall scrutinize the proposals and applications received as per directions and guidelines of the Permanent Committee.

(*h*) The Permanent Secretariat on scrutiny of the proposals so received will intimate the concerned Advocate of any irregularity, who shall remove the same within 15 days from the receipt of such intimation.

(*i*) On receipt of all applications/ proposals/ recommendations the Permanent Secretariat shall compile the relevant data and information with regard to the reputation, conduct, integrity of the Advocate(s) concerned including his/her participation in pro-bono work if any; reported judgments of cases in which he/she has appeared; the number of such judgments for the last five years; and such other information as the Permanent Committee may think necessary. This data will be gathered by the Permanent Secretariat from such source or sources as the Permanent Committee may direct, and is not restricted to data submitted by the advocate-candidate.

(*j*) The Permanent Secretariat shall publish the proposal of designation of the Advocate on the official website of the Bombay High Court, inviting suggestions and views of the members of the Bar and other stakeholders within 30 days from the date of such publication.

(*k*) The suggestions/views shall be in writing and shall bear the name and full address of the sender and shall be addressed to the Permanent Secretariat of the High Court.

Anonymous petitions/ representations/views shall not be entertained. The suggestions/ views shall be submitted only in physical form in writing and submission of such views/suggestions by any other mode shall not be entertained.

(*l*) On completion of above procedure, the Permanent Secretariat shall prepare and submit a report to the Permanent Committee regarding every proposal/application for designation. The Permanent Secretariat shall endeavour to prepare such report within 90 days of the last date for receipt of views/ suggestions.

(*m*) The Permanent Committee will examine each proposal /application for designation of Senior Advocate in the light of data provided by the Secretariat of the Permanent Committee and the suggestions/views of the members of the Bar and other stakeholders.

(*n*) The Permanent Committee shall interact with the Advocate concerned to make an overall assessment. The Permanent Committee will make its overall assessment on the basis of a point-based format indicated below:—

Sr. No. **(1)**	**Matter** **(2)**		**Points** **(3)**
1	Number of years of practice of the Applicant Advocate from the date of enrollment [1]**[10 points shall be allocated for practice up to 10 years and one point each shall be allocated for every year of practice beyond 10 years, with a maximum of 20 points]**	. .	20 Points
2	Judgments (reported and unreported) which indicate the legal formulations advanced by the Advocate concerned in the course of the proceedings of the case; pro bono work done by the Advocate concerned; domain expertise of the applicant advocate in various branches of law, such as Constitutional Law, Inter-State Water Disputes, Criminal Law, Arbitration law, Corporate law, Family law, Human Rights, Public Interest Litigation, International law, law relating to women, etc.	. .	40 Points
3	Publications by the Advocate.	. .	15 Points
4	Test of personality & suitability on the basis of interaction	. .	25 Points

1. Substituted vide High Court Notification No. Rule/P. 3603/2018. Dated. 20-10-2022. MGG-Part IV-C, Pg.1

(*o*) If the Permanent Committee defers any proposal/application for designation as a Senior Advocate, such proposal/application shall not be considered until the expiry of one year from the date of deferment.

(*p*) After completing the assessment the Permanent Committee shall place the proposals/ recommendations/ applications for designation, before the Full Court for consideration, along with its recommendations.

(*i*) The Full Court will have due regard to the recommendations of the Permanent Committee.

(*ii*) At any Full Court meeting, a Judge may abstain from participating in the proceedings with respect to any proposal.

(*iii*) In the Full Court meeting convened for this purpose, voting by secret ballot will not normally be resorted to by the Full Court except when so unavoidable. In the event of a secret ballot, the decisions will be by majority of the Judges present and actually voting.

(*q*) A proposal/application not approved by the Full Court may be reviewed/reconsidered only after the expiry of two years from the date on which proposal/ application was not accepted by the Full Court and then only on receipt of a fresh proposal/application for designation of Senior Advocate.

(*r*) The name of candidates who have been accepted for designation by the Full Court shall be designated as Senior Advocates.

(*s*) The final decision of the Full Court will be communicated to each candidate individually.

6. ***Norms and Guidelines.—*** The following norms and guidelines will govern all recommendations and proposals/applications for designation as a Senior Advocate :

(*a*) Every Advocate-candidate shall be enrolled with the Bar Council of Maharashtra and Goa.

(*b*) The Advocate should have not less than ten years' standing as an advocate of the Bombay High Court.

(*c*) An Advocate convicted by any competent Court or against whom a charge has been framed for an offence involving moral turpitude or for contempt of court shall not be eligible for consideration.

(*d*) The Advocate must be found deserving of designation as Senior Advocate by virtue of his/her ability, integrity, standing at the Bar or special knowledge or experience in law.

(*e*) Upon designation of an Advocate as Senior Advocate, he or she shall also appear gratis and pro bono in legal aid cases as and when called upon by the Court.

(*f*) An Advocate who has done legal aid work shall be given due weightage.

(*g*) On designation as a Senior Advocate, the advocate concerned will not—

(*i*) Draft or sign pleadings in any Court.

(*ii*) Appear unless assisted by another Advocate.

(*iii*) Directly give consultation to any litigant.

(*iv*) Appear for mentioning any matter to the Court nor seek an adjournment in any Court.

(*h*) Canvassing in any form by the Advocate concerned or by the proposer or seconder shall result in the immediate disqualification of the proposal/application of the advocate concerned.

7. *Review and Recall.—* (*a*) If it is found that any Senior Advocate has—

(*i*) committed professional misconduct; or

(*ii*) shown intemperate behaviour either inside or outside the Court; or

(*iii*) been found invariably negligent in discharge of professional duties; or

(*iv*) been found by the Bar Council of India or Bar Council of Maharashtra and Goa or the Bar Council of any other State to have committed professional or other misconduct; or

(*v*) been convicted of an offence involving moral turpitude or for Contempt of the Court; or

(*vi*) for any other reason lost the privilege to be a Senior Advocate, then, for any one or more of the foregoing reasons, the name of the Senior Advocate will be placed before the Chief Justice for considering the withdrawal of designation of Senior Advocate.

(*b*) On being satisfied that the matter should be further considered, the Chief Justice shall refer the issue to the Permanent Committee. The Permanent Committee shall give an opportunity to the Senior Advocate to plead his/her case including a personal hearing and thereafter submit its recommendation to the Chief Justice no later than six months from the date of reference to the Committee. The Committee will be free to evolve its own procedure.

(*c*) If the Committee in its report recommends withdrawal of designation as Senior Advocate, the Chief Justice shall place the report with the recommendation of the Committee at the next Full Court meeting for its consideration.

(*d*) If a majority of Judges present at the meeting is of the view that the Senior Advocate has forfeited his/her privilege, the Full Court shall recall his/her designation as a Senior Advocate.

(*e*) The Registrar General shall notify the decision to the Advocate and to the Bar Council of Maharashtra and Goa who shall delete the name from the list of Senior Advocates maintained by the Bar Council.

(*f*) Nothing contained in these rules shall stand in the way of an Advocate who has been designated by the High Court of Bombay as a Senior Advocate from submitting an application to withdraw or recall his/her designation as a Senior Advocate. In the event of such an application addressed to the Permanent Secretariat being submitted, the Permanent Secretariat shall place it before the Chief Justice for appropriate orders thereon.

8. ***Interpretation*****.—**(*a*) All questions relating to the interpretation of these rules shall be referred to the Chief Justice whose decision thereon shall be final.

9. ***Repeal and Savings*****.—**(*a*) All previous Rules in respect to the subject matter covered by these Rules, including the Guidelines for Designating an Advocate as Senior Advocate, as made by the High Court of Bombay with all amendments/modifications, are hereby repealed. However, this repeal shall not, by itself, invalidate the actions taken under the repealed Rules/Guidelines.

FORM — I

FORM OF PROPOSAL/ENDORSEMENT
(required from two previously designated Senior Advocates)

Date :

To,

The Honourable the
Chief Justice and the
Judges of the High
Court of Judicature
at Bombay.

I, ... (*name of Senior Advocate*) propose Shri/Smt/Kumari ... ... (*name of Advocate proposed*), who was enrolled as an advocate by the Bar Council of Maharashtra & Goa on ... ... and continues to be on the Roll of Advocates maintained by the said Bar Council, and who has been practicing in this Court for the last ... ... years, for being designated as a Senior Advocate of this High Court, as in my opinion, by virtue of his/her ability, experience and standing at the Bar, he/she is deserving of such distinction.

The reasons why, according to me, the advocate is worthy of being designated as a Senior Advocate are as follows :—

... ...

... ...

Dated this ... ... day of ... ... 20.

(Signature of the Senior Advocate)

CONSENT

I hereby give my consent to be designated as Senior Advocate.

Dated this ……..day of ……20

(Signature of the Advocate concerned)

FORM — II

PROFORMA OF BIODATA

Passport size Photograph

1. Name of Applicant
2. Date of birth
3. Permanent Residential Address
4. Office Address
5. Educational Qualifications
6. Date of Enrolment
7. Bar Council with which enrolled
8. Bar Council Enrolment number
9. Names of Lawyers' Associations of which the applicant is a member
10. Number of years of practice in the Bombay High Court
11. Areas of specialization, if any
12. Name of lawyer, if any, in whose chambers the applicant was a junior; duration or period for which the applicant was a junior.
13. Names of any juniors, if any, attached to the applicant's own chambers, and the duration or period for each.
14. Whether empanelled or holding any office under the State or Central Government.
15. Nature of practice (Civil, Criminal, Constitutional, Taxation, Labour, Company, Service etc.)
16. Any particular field of law in which Applicant has specialization / domain expertise, special knowledge or special experience (such as Constitutional law, Inter-State Water Disputes, Criminal law, Arbitration law, Corporate law, Family law, Human Rights, Public Interest Litigation, International law, law relating to women, etc.).
17. Number of Reported Judgments in matters in which the applicant appeared (provide list of citations).

18. Reference to at least ten reported judgments in cases in which the applicant has appeared as arguing Counsel and contributed to the development of law, and which indicate the legal formulations advanced by the applicant.
19. Details of pro bono work / legal-aid work during last five years
20. Details of the position, if any, held in Bar Council/Bar Association
21. Details of any lectures delivered.
22. Details of any publications authored or co-authored by the Applicant
23. Whether the Applicant had applied earlier.
24. Whether the Permanent Committee has deferred applicant's proposal/application for designation as Senior Advocate earlier? If so to provide details thereof.
25. Whether the applicant's name was earlier proposed for being designated as Senior Advocate of the Bombay High Court or any other High Court or of the Supreme Court of India. If so, the decision thereon, with its date.

Signature of the Advocate concerned.

Date :

GENERAL INSTRUCTIONS FOR COMPLETING THE APPLICATION FORM FOR DESIGNATION AS A SENIOR ADVOCATE

(1) Every Application, in the prescribed format, shall be made in English, typed/printed with font size (Arial, 12pt) in double spacing on a single side of white A4-size paper with top and left margins of 1.5 inches.

(2) All documents annexed to the application should be accompanied by a detailed index containing the details thereof.

(3) Documents accompanying the application should be listed and numbered consecutively in the index.

(4) The entire compilation will have running page numbering IN THE TOP RIGHT CORNER in Arial 14 pt boldface.

(5) Name of the Applicant must tally with his/her name as mentioned in his/her enrolment certificate. Abbreviated names are not to be used.

(6) The completed Application with its index should be presented in the form of a paper book with binding or stitching on the left side. Spiral or comb binding is not to be used.

(7) All photocopies should be legible and true copies of their respective originals.

(8) Two copies of the Application paper book, identical in every respect and particular, are to be submitted.

(9) An original colour passport-sized photograph against a plain background is to be pasted on each copy of the Application.

25. Application of Rules to Advocates, Supreme Court, *mutatis mutandis* :- All the Rules contained herein which enjoin any duty or obligation on an Advocate shall apply *mutatis mutandis* to Advocates of the Supreme Court acting for litigants without being instructed by another Advocate:

Provided that Rules 6 to 9 above will not apply to a Supreme Court Advocate in respect of proceedings in which he has already filed a vakalatnama prior to 1st January 1977.

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PART II

RULES RELATING TO THE JURISDICTION OF THE HIGH COURT ON ITS ORIGINAL SIDE

CHAPTER I

ORIGINAL JURISDICTION

26. Holding of Court on Original Side: - A Court for the exercise of the Original Jurisdiction of the High Court on its several sides may be held before one or more Judges of the High Court. Such Judge or Judges may, subject to any rules of the Court, exercise in Court or in Chambers all or any part of the Original Jurisdiction of the High Court.

Note.- The Ordinary Original Civil Jurisdiction of the High Court extends to Greater Bombay as defined in the Greater Bombay Laws and the Bombay High Court (Declaration of Limits) Act, 1945 (Bom. Act No. XVII of 1945), as amended by the Greater Bombay Laws and the Bombay High Court (Declaration of Limits)(Amendment) Act, 1950 (Bom. Act No. VIII of 1950), and as further amended by the Greater Bombay Laws and the Bombay High Court (Declaration of Limits)(Amendment) Act, 1956 (Bom. Act No. LVII of 1956). It includes the following areas:-

1. The Town and Island of Bombay.
2. The limits of the Port of Bombay as defined in the Government Notification in the Political Department No. 6204, dated the 6th June 1930, issued under section 5 of the Indian Ports Act, 1908.
3. The limits of the Municipal Boroughs of Bandra, Parle-Andheri and Kurla and of the Municipal Districts of Ghatkopar-Kirol and Juhu.
4. The under mentioned 28 villages of the Bombay Suburban District :- (1) Bandivali, (2) Chembur, (3) Vadawli, (4) Ambivali, (5) Chakala, (6) Trombay, (7) Bapnala, (8) Brahmanwada, (9) Mandala, (10) Mankhurd, (11) Man Budruk, (12) Mulgaon, (13)Vesava, (14) Madh, (15) Devnar, (16) Borla, (17) Mahul, (18) Anik, (19) Kole-Kalyan, (20) Marol, (21) Mohili, (22)Maravali, (23)Mogre, (24) Shahar, (25) Nanala, (26) Saki, (27) Asalpe (Aspa), (28) Kondivate.
5. The undermentioned villages of the Bombay Suburban District :- (1) Bhandup, (2) Chandavli, (3)Hariali, (4) Kanjur, (5) Kopri, (Near Pawai), (6) Majas (as

TOP

constituted by section 4A of the Act XVII of 1945), (7) Oshivara, (8) Parajapur (as constituted by section 4A of Act XVII of 1945, (9) Paspoli, (10) Pawai, (11) Tirandaj, (12) Tungve, (13) Vikhroli, (14) Vyaroli.

6. The under mentioned villages of the Thane District :- (1) Akse, (2) Akurli, (3) Areay, (4) Borivali, (5) Charkhop, (6) Chinchavali, (7) Dahisar, (8) Darivali, (9) Dindoshi, (10) Eksar, (11) Gundgaon, (12) Gorai, (13) Goregaon, (14) Kaneri, (15) Kandivli, (16) Kurar, (17) Klerbad, (18) Magathane, (19) Malad, (20) Malvani, (21) Mandapeshwar, (22) Manori, (23) Marve, (24) Maroshi, (25)Mulund, (26) Nahur, (27) Pahadi, (28) Poisar, (29) Sai, (30) Shimpoli, (31) Tulshi, (32) Wadhwan, (33) Valnai, (34) Yerangal.

27. Assignment of work to be made by the Chief Justice:- Suits, summary Suits, Matrimonial Suits, Commercial Causes, Testamentary and Intestate Suits, and matters, Writ Petitions, Company Matters, Land Acquisition References, Income-tax and other tax matters, Insolvency matters, Admiralty and Vice-Admiralty Suits, Disciplinary Matters and all other matters and proceedings in the exercise of the Original Jurisdiction of the High Court shall be heard before such Judges as the Chief Justice shall from time to time appoint.

28. Reference to two or more Judges: - If it shall appear to any Judge either on the application of a party or otherwise, that a suit or matter can be more advantageously heard by a bench of two or more Judges, he may report to that effect to the Chief Justice, who shall make such order thereon as he shall think fit.

[1]**[28(A) –** Whenever one Division Bench shall differ from the decision of any other Division Bench upon a point of law or usage having the force of law, the case shall be directed to be placed before the Chief Justice for decision by a larger Bench. In such a case of different of opinion on a point of law, the Division Bench referring the case shall state the point on which it differs, formulate the question of issue to be answered and refer the case to the Chief Justice for decision by a larger Bench.

28(B) – If the question arises in an appeal from an original decree, the questions of law shall alone be referred, and the larger Bench shall return the case with expression of its opinion upon such points of law for final adjudication by the Division Bench which referred

1. Inserted by Notification No. G/Amend/1077/2022, dated 24th June, 2022 published in M. G. G. Part IV – C Ext. Ord. dated 30th June, 2022 pg. 3

TOP

it, and in case of necessity in consequence of the absence of any or either of the referring Judges, for the ultimate decision of another Division Bench.

28(C) – The provision in sub – rule (A) of Rule 28 shall apply *Mutatis Mutandis* to Single Judges.]

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TOP

CHAPTER II
VACATIONS AND HOLIDAYS

[1][**29. Vacation**: - The vacations to be observed in the High Court and its Offices on the Original Side shall be three in every year, viz., the May, October and December Vacations and shall begin and end on such days as the Court may direct.

30. Holidays: - The High Court and its Offices on the Original Side will be closed on such days as the Court may direct. A list of Holidays shall be notified in the Maharashtra Government Gazette.]

31. Applications in vacation and on holidays: - Whenever any application is to be made to the Court in the vacation or on a holiday, the party or his Advocate on record shall give reasonable notice thereof to the Prothonotary and Senior Master or the officer whose duty it is to attend to such application.

[2][**31-A. Matters to be dealt with by a Single Judge during Vacations and Holidays :-** Notwithstanding anything contained in these Rules, a Single Judge may, during vacation or on holidays or when Courts are not in session, [3][* * * * *] grant *ad-interim* Orders in any urgent matter, civil or constitutional, Original or Appellate, even when ordinarily such orders are required to be passed by a Division Bench, Such *ad-interim* Orders shall be placed before the appropriate Division Bench for further considerations as soon as possible on re-opening of the Court.]

* * * * *

1. Substituted by G.N.No. G/Amend/2419,dated 11.4.1991,See M.G.G. Pt. IV-C, Pg 170-173.
2. Rule 31-A was Inserted by G.N.No.G/Amend/2419. dated 11.4.1991, See M.G.G. Pt. IV-C, Pg. 170.
3. The words “issue a Rule or” was deleted by G.N.No. G/Amend/7910, dated 24.7.1996, See. M.G.G., Pt.IV-C, Pg. 413.

TOP

CHAPTER III

RULES APPLICABLE TO ALL OFFICES ON THE ORIGINAL SIDE

32. Separate books to be kept for each year: - The Officers of the Court and the Sheriff shall keep for every years separate books for their respective offices for the several business belonging thereto.

33. Keeping of records: - Each Officer of the Court shall safely keep all records and muniments, and shall class them in regular order so that recourse may be speedily had thereto.

34. Account of stamps: - The Officers of the Court shall keep an account of all stamps cancelled in their respective offices, specifying the value thereof.

35. Receipts of documents by officers: - The Officers of the Court shall not receive any pleading, petition, affidavit or like document on the file (except original exhibits), unless the same comply with the provisions of rules 42 and 44.

36. No officer to be receiver or guardian without previous sanction: - No officer of the Court shall accept the office of receiver or guardian of the property of a minor in any suit, matter or appeal without the previous sanction of the Chief Justice.

37. No Officer or Sheriff or Advocate to be surety or bail: - No Officer of the Court or the Sheriff or any Advocate or any of their deputies, assistants or clerks, shall be a surety in any cause or matter in the Court, nor shall any such person as aforesaid (other than an Advocate) be bail for any prisoner committed for trial at the Court or admitted to bail by the Court.

38. Consequences of default in payment of fees: - If an Advocate or party in person fails to pay Court fees and/or fees chargeable under the rules of the High Court, the Head of the office may, in his discretion, refuse to receive any fresh document from such Advocate or party in person and/or refuse to hear him any further in the matter until the sums due to the office are paid.

TOP

39. Late payment when deemed to be made: - When an amount is tendered in the Court on any day after 1-00 p.m., but is not accepted by the office concerned and is paid into the said office on the next working day between 11-00 a.m. and 1-00p.m., the payment shall be deemed to have been made on the day on which the tender was made.

40. Report of personal fees and honoraria:- An Officer of the Court who is paid a fee or an honorarium for any special work done by him shall, on or before the 31st January in each year, submit a report to the Chief Justice of all fees and honoraria received by him during the previous year.

41. Performance of duties during the temporary absence of the Head of an Office: - During the temporary absence of the Head of an office, his immediate Assistant or some other officer may be authorised by the Chief Justice to perform the duties usually performed by such Head of Office.

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TOP

CHAPTER IV

INSTITUTION OF THE SUIT

42. Plaint :- (1) The plaint and the documents annexed thereto shall be typed, cyclostyled or printed with double spacing between the lines in the English language on durable [1][Superior quality A4 size paper having not less than 75 GSM with printing on both sides of the paper with Font – Times New Roman or Georgia, Font size 14 with inner margin of 5 cms and outer margin 3 cms.]

(2) The following documents shall be annexed to the plaint, viz (i) List of documents on which the plaintiff relies and (ii) exhibits or copies of exhibits. If an exhibit is in a language other than English, neither the original nor a copy thereof shall be annexed, but an official translation of such exhibit shall be annexed to the plaint. The pages of the plaint with all its annexures shall be numbered serially. An index shall be prepared of the plaint and its annexures.

(3) Exhibits annexed to the plaint shall be marked separately and not collectively. Every exhibit shall commence on a new page and shall bear a separate mark in serial order, such as Ex. "A", Ex. "B" and so on. Reference to the exhibit mark shall be given in the margin of the plaint where the particular annexure is referred to.

(4) The plaint with its annexures shall be stitched together book wise in the following order, viz. (i) Index, (ii) Plaint, (iii) Vakalatnama, (iv) Memorandum of Registered Address, (v) List of documents on which the plaintiff relies and (vi) Exhibits or copies of exhibits.

(5) The dates and amounts mentioned in the plaint shall be expressed in figures and sums of moneys in rupees and paise. When Indian dates are given, the corresponding English dates shall also be added.

(6) The plaint shall be divided into paragraphs numbered consecutively and shall contain the particulars required by Order VII, rules 1 to 8 of the Code of Civil Procedure.

(7) Every alteration, interlineations and erasure in the plaint shall be authenticated by the initials of the officer before whom it is declared.

1. Substituted by notification No. G/Amend/671/2021, dated 6th July 2021, See 2021 MGG, Part 4C, Ord.

TOP

43. Particulars of claim to be annexed to plaint: - Where the plaintiff seeks to recover a debt or a liquidated sum of money, there shall be annexed to the plaint particulars of the plaintiff's claim.

44. Plaint to be verified and before whom :- All plaints shall be verified, within the local jurisdiction, before one of the officers of the Court appointed in that behalf and elsewhere in India before the officer indicated by the Code of Civil Procedure, section139. The verification shall be in Form No. 3.

45. Plaint to be lodged before presentation: - A plaint in which leave of the Court is to be applied for shall, except in cases of special urgency, be lodged for examination with the officer attending on the Judge in Chambers before 4.15 p.m. on the day previous to its being presented to the Judge and the plaintiff or his Advocate on record shall attend before the Judge at the time of presentation.

All other plaints shall be lodged with such officer as the Prothonotary and Senior Master may direct.

[1]**[45-A.** The Office time for lodgment of all Court proceedings shall be from 11-00 a. m. to 5-30 p.m., except lunch time, from Monday to Friday (except holidays) and from 11-00 a.m. to 4-15 p.m., except lunch time, on office working Saturdays.]

46. Plaint to be properly stamped :- The plaint and documents therewith, when so lodged, shall be properly stamped with uncancelled stamps ready for filling.

47. Endorsement on admission :- When a plaint is admitted in words "Admitted this day" shall be endorsed thereon and signed by the Prothonotary and Senior Master or by one of his assistants, the words "written statement" being added when such statement is required.

48. Official title only of Advocate General to appear in suit by or against him. Relators:- When the Advocate General is a party to a suit in his official capacity, he shall be named and described in the pleadings by his official title only. Before the name of any person shall be used in any suit as relator, such person shall sign a written authority to the Advocate on

1 . Rule 45A inserted by G/Amend/435 dated 24th June 2015

TOP

record for that purpose and such authority shall be filed in the office of the Prothonotary and Senior Master.

49. Form of appearance/vakalatnama to be filed on behalf of a party :- (a) Where a party appears in person, he shall file an appearance in Form No. 4.

(b) Where a party appears by Advocate who, under the rules is entitled to act, appear and plead on the Original Side, the Advocate shall file a vakalatnama in Form No. 5.

50. Address for service:- (i) Every party to a suit shall, on filing an appearance in person or a vakalatnama, file in the office of the Prothonotary and Senior Master a memorandum in writing giving an address within the local limits of the Court (to be called his "registered address") at which service of any notice, summons or other process may be made on him.

(ii) Any notice and other process required to be served on any such party shall be deemed to be duly served and the service shall be deemed to be as effectual as if the notice or process had been served on him personally, if it is left at his registered address for service or sent to him by registered post at such address.

(iii) The registered address shall hold good in all proceedings in the suit and in any appeal in such suit and also for a further period of six years from the date of the final decision, for all purposes including execution.

(iv)A party who desires to change his registered address shall file a fresh memorandum in writing giving his new address and such new address shall then be deemed to be the registered address of the party.

(v) Nothing in this rule shall prevent the Court from directing the service of the notice or other or other process in any manner, if, for any reasons, it thinks fit to do so.

(vi) If a party fails to file the registered address as required by sub-rule (i), the Court may *suo motu* or on the application of any party, reject the plaint if the party in default is the plaintiff or strike out the defence if the party in default is the defendant or make such other order as it thinks fit.

TOP

(vii) The provisions of this rule shall, with any necessary modifications, apply to parties to any original petition or matter.

51. Acceptance of service by Advocate on behalf of client: - When an Advocate has filed his Vakalatnama for a party in a suit or matter, he shall accept service on behalf of his client, of all processes (including a Chamber Summons, a Notice of Motion and a Summon for Judgment) issued in the suit or matter until he is discharged.

52. Party represented by Advocate not entitled to act or appear in person :- When a party is represented by an Advocate, he shall not be entitled to make any application or file any or appear in person, unless the Judge or the Prothonotary and Senior Master, as the case may be, allows him to do so.

[1]**[53. Parties in person to attend personally and supply address and postage if necessary information regarding his matter by post at the time of presentation :-** The name, address and description of parties appearing in person and of the person, who had drafted the document filed by such parties, shall be subscribed in the said documents.

Parties appearing in person shall personally attend the Office of the Prothonotary and Senior Master to receive any information they may require:

Provided, however, that at the time of presentation of any Plaint, Memorandum of appeal, application for execution petition, miscellaneous application or any other matter, the party appearing in person shall, at his option, supply sufficient postal stamps for postage and registration charges for addressing communications to his registered address by the Office when the matter presented by him is for the first time placed on Board for final hearing and disposal.]

54. Rules 42 and 44 to apply to all pleadings etc. :- The provisions of rules 42 and 44 shall apply, with any necessary modifications to all pleadings, Petitions, Miscellaneous Applications, Affidavits, Notices of Motion, Chamber Summons and all other proceedings that may be taken in a suit or matter, so far as they are applicable.

1. Substituted by G.N. No G/Amend/3047, dated 18.4.1992, See M.G.G. Pt. IV-Ka, Pg.372.

TOP

55. Petitions to be on Oath:- All Petitions and Miscellaneous Applications shall be on oath and shall be verified in the manner provided by Order VI, rule 15 of the Code of Civil Procedure for the verification of pleadings.

56. Forms of appearance or vakalatnama in petitions etc: - Forms relating to appearance and vakalatnama in suits shall apply, with any necessary modifications, to appearance and vakalatnama in Petitions, Applications and all other matters.

57. General List of suits: - All suits shall be entered in the Prothonotary and Senior Master's office in a list called the General List of suits. [1][subject to removal of the office objections, if any] In such list shall be entered the number and the class of the suit, the names of the plaintiff and the defendant, their respective Advocates, if any, and the day fixed for the hearing.

58. Prospective List of suits: - Every fortnight, or sooner if necessary, a list shall be made of suits due for hearing. Such list shall be called the Prospective List of suits, and shall be put up near the Prothonotary and Senior Master's Office.

59. Working of Prospective List :- From the Prospective List shall be taken in their turn suits required for hearing for the Courts.

60. Transfer of suit to Stayed List "A":- When an order is made referring a suit to arbitration, such suit shall be transferred from the General List of suits to a separate list called "Stayed List 'A'". Such suit shall be restored to the General List of suit after the award is filed.

61. Transfer of suit to Stayed List "B" :- (a) A suit in which an order for the issue of a commission for the examination of a witness is made and no definite date for the hearing of the suits is fixed shall be transferred from the General List of suits to a separate list called "Stayed List 'B'". Such suit shall, after the return of the Commission, be restored to the General List of suits.

1 . These words were inserted by Notification No. G./Amend/12878., dated 5-10-2018.

TOP

(b) A suits in which an interim stay of proceedings sine die has been granted shall be transferred from the General List of suits to Stayed List "B" and shall be restored to the General List on the stay being removed.

62. Removal of a suit for trial to High Court from any Subordinate Court: - When an order is made by the High Court, Appellate Side, under the Extraordinary Civil Jurisdiction for the removal of a suit from any Subordinate Court, the Registrar, High Court, Appellate Side, shall transfer the papers in such suit, when received, to the Prothonotary and Senior Master, who shall treat the suit as a suit filed on the Original Side and shall enter it in the General List of suits.

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TOP

CHAPTER V

MINORS AND PERSONS OF UNSOUND MIND

63. Next friend of minor to make affidavit. Order of appointment unnecessary: - When a suit is brought on behalf of a minor, the next friend shall make an affidavit, to be presented with the plaint in the suit, that he has no interest directly or indirectly adverse to that of the minor, and that he is otherwise a fit and proper person to act as such next friend. The date of birth of the minor, if know, or otherwise his age, shall also be stated. No order appointing the next friend by whom the suit is to be instituted will be necessary.

64. Procedure by petition when defendant is a minor: - When a plaintiff knows that a defendant is a minor, he shall, on the presentation of the plaint, present a petition for the appointment of a guardian for the suit for such defendant. Such Petition shall be in Form No. 6.

65. Person eligible to be *guardian ad-litem* :- The person to be appointed guardian for the suit, if he has no interest directly or indirectly adverse to that of minor and is otherwise a fit and proper person to be appointed guardian for the suit, will ordinarily be (a) the guardian of the minor appointed or declared by an authority competent in that behalf, or (b) the testamentary guardian, or (c) the natural guardian, or (d) the person under whose care the minor is, and the plaintiff shall, if possible, obtain the consent is writing of one of such persons, in order of priority referred to above, to his appointment as such guardian.

66. Procedure when plaintiff unable to obtain consent of persons eligible :- If the plaintiff is unable to obtain the consent of any of the persons mentioned in the last preceding rule, he shall state the reasons of his inability and propose some other fit and proper person for being appointed guardian for the suit; a notice will then issue to the minor if the minor is above 14 years of age and to the persons mentioned in the last preceding rule informing them that on a day to be therein named, the Prothonotary and Senior Master will, if no cause be shown to the contrary, proceed to appoint the person proposed by the plaintiff, or some other fit and proper person, to be such guardian as aforesaid. (Form No. 7).

67. Service of summons on *guardian-ad-litem* :- (1) On such appointment being made, the summons and other processes or Notices in the suit shall be served on such *guardian-ad-litem* on behalf of the minor unless otherwise ordered.

TOP

(2) Where no *guardian-ad-litem* has been appointed or for any other reasons the Court orders service on a minor personally and such minor is unable to acknowledge the same, the service shall be effected by serving any person in whose charge minor is or with whom he habitually resides.

In case there is no such person, the service shall be effected by affixing a copy of the writ or other process with a translation thereof on the outer door of the house in which the minor ordinarily resides.

68. Application of Rules 63 to 67 to persons of unsound mind: - The provisions contained in Rules 63 to 67 shall so far as may be, apply to persons adjudged, before or during the pendency of the suit, to be of unsound mind, and shall also apply to persons who, though not so adjudged, are found by the Court on inquiry by reason of unsoundness of mind or mental infirmity to be incapable of protecting their interest when suing or being sued.

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TOP

CHAPTER VI
WRIT OF SUMMONS

69. Summons to defendant.— The Writ of Summons [1][with copy of Plaint with annexures] to appear and answer shall be [1][as per provisions of Order V Rule 1 and 2 (Bombay amendment) of Civil Procedure Code, 1908 and] in one of the Form Nos. 8, 9, [1][9A] and 10 as may be applicable to the case with such variations as the circumstances of the case may require.

70. [2][Name, address and electronic mail address] of the party or of the Advocate to be stated in every process.— [2][The name, address and electronic mail address] of a party or of the Advocate appearing for a party shall be stated in every Writ of Summons, Notice, Warrant and every process of the Court issued at the instance of such party or Advocate.

71. Summonses, etc., how attested and signed .—All Writs of Summons, Rules, Orders, Warrants and other mandatory processes shall be sealed with the seal of the Court and shall have and bear the attestation of the Chief Justice or acting Chief Justice, or, in the vacancy of the said office, of the senior puisne Judge and shall be signed [2][or digitally signed] by the Prothonotary and Senior Master or the Master and Assistant Prothonotary or such one of the Assistant Masters or Associates [2][or Master (Admn.) or Section Officer] as the Prothonotary and Senior may from time to time direct, adding thereto the date of signing.

72. Sealing of summons, rule, decree.—The seal of the court shall not be affixed to any Writ of Summons, Rule, order Warrant, or other mandatory process, unless the same is signed by an Officer of the Court to be called the sealer and unless the name of the party or his Advocate on record be subscribed thereto. The date of the sealing shall be inserted below the signature of the sealer.

73. [3][*Deleted*]

74. [3][*Deleted*]

1 . Substituted vide Notification No. G / Amend/610/2022, dated-24-03-2022
2 . Substituted and Added vide Notification No. G / Amend/610/2022, dated-24-03-2022
3 . Deleted vide Notification No. G / Amend/610/2022, dated-24-03-2022

TOP

[1][**75. Suits, other than Commercial Suits, Summary Suits and Matrimonial suits to appear for directions before Prothonotary and Senior Master .—**

Suits, other than Commercial Suits, Summary Suits and Matrimonial suits shall be placed on board before the Prothonotary and Senior Master for directions as to status and other services relating to Suit on the thirtieth day from the date of issuance of Writ of Summons.]

76. Mode of service of summons.—A Writ of Summons shall be served within the local limits of the Ordinary Original Civil Jurisdiction of the High Court by personal service or, if the plaintiff so desires, by registered post pre-paid for acknowledgement. Where the Writ of Summons is to be served at a place situate beyond the said limits, it may be served by registered post pre-paid for acknowledgement. An acknowledgement purporting to be signed by the defendant or an endorsement by a postal servant that the defendant refused service shall be deemed to be *prima facie* proof of service.

In all other cases, the Court shall hold such inquiry as it thinks fit and either declare the summons to have been duly served or order such further service as may in its opinion be necessary.

[2][In addition to above, the Writ of Summons may be served by Fax, Speed Post or Courier with acknowledgement, wherever such facility is available, at the cost of the parties. Such service shall be treated as good service upon production of the Original Fax Notice/order/process alongwith the activity report or acknowledgement in token of service of the notice/order/Process by speed post or by Courier. Such acknowledgement purporting to be signed by the Defendant or an endorsement by Postal servant or Courier Agent that the Defendant refused service shall be deemed to be prima facie proof of service.

In addition to above, if the Plaintiff so desires the Writ of Summons may be served by Electronic Mail Service, in which case the provisions of Bombay High Court Service of Processes by Electronic Mail Service (Civil Proceeding) Rules 2017 shall apply to Writ of Summons in all Suits including Suits under Commercial Court Act.]

77. Writ of summons and other process not to be served on Saturdays, Sundays and holidays.—No Writ of Summons or other process shall be served on Saturdays, Sundays or on holidays notified by the Court, except by leave of the Court or the Judge in Chambers.

1. Substituted vide Notification No. G / Amend/610/2022, dated-24-03-2022
2 .Inserted vide Notification No. G / Amend/610/2022, dated-24-03-2022

TOP

78. Service at advocate's office not to be effected after 5:30 p.m.—No Writ of Summons or other process shall be served at the office of an Advocate after 5:30 p.m. on week days.

79. Undertaking by advocate to accept service.—A Writ of Summons need not be served on a defendant personally, if his Advocate undertakes in writing to accept service, and file a Vakalatnama.

80. Only one writ may be served, when advocate appears for several defendants.— Where an Advocate undertakes in writing to accept service and to file a vakalatnama on behalf of more defendants than one, it shall be sufficient to serve only one Writ of Summons on the said Advocate on behalf of his clients.

81. [1]**[*Deleted*]**

82. Power to direct issue of fresh summons.—Whenever upon the further amendment of any Writ of Summons the Prothonotary and Senior Master shall be of opinion that a fresh Writ of Summons should be substituted, he shall direct it to be done and such fresh writ of Summons shall be prepared by the plaintiff or his Advocate on record and be examined, signed and sealed by the proper officer, and in such case, the Chief Translator's office shall be entitled only to a comparing fee of twenty paise per folio in respect of the words inserted in the printed form of the writ of summons.

83. Service of notice on Attorney General or Advocate General.—If the Court directs that notice of any application be given to the Attorney General of India or to the Advocate General of any State, the notice shall be issued and served by the Office of the Prothonotary and Senior Master.

84. Proof of service of Summons.—Unless the Court shall otherwise order, the service of a Summons to appear and answer shall be proved by the vakalatnama having been filed or when no vakalatnama has been filed, by evidence showing that the Summons was served in the manner provided by the Code of Civil Procedure. Such proof shall ordinarily be by the affidavit of the bailiff and (as to such matters as the bailiff cannot speak to of his knowledge)

1. Deleted vide Notification No. G / Amend/610/2022, dated-24-03-2022

TOP

of the person who attended the bailiff for the purpose of identification at the time of service., or of such other person or persons as can speak to the identity of the person served or to other matters necessary to be proved in respect of the service.

85. When service through Court.—When the Summons has been served through another Court, the service may be proved by deposition made before the Court through which the service was effected.

86. Substituted service.—Application for substituted service of the Writ of Summons shall be made in chambers. The application shall be supported by an affidavit, and in the case of service through another Court, by the deposition of the Officer who attempted to make the service, and of such other person or persons as may have accompanied him for the purpose of pointing out the party to be served, stating when where and how such service was attempted to be made.

87. Suits to be placed on board for dismissal if summons not served within [1][three months].—if the Writ of Summons is not served within [1][three months] from the date of the filing of the plaint, the Prothonotary and Senior Master shall, unless good cause is shown, place the suit on board for dismissal. The Prothonotary and Senior Master shall notify such suits on his notice board one week before they are placed on the board for dismissal.

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1. Substituted vide Notification No. G / Amend/610/2022, dated-24-03-2022

TOP

CHAPTER VII

WRITTEN STATEMENT, SET-OFF AND COUNTER-CLAIM

88. Time for filing appearance or vakalatnama by the defendant.—(a) In suits where the Written Statement is called for by the Writ of Summons, the defendant shall file an appearance in person or a vakalatnama, as the case may be, within [1][Thirty days] from the service of the Writ of Summons.

(b) In Matrimonial suits the defendant shall file an appearance in person or a vakalatnama, as the case may be, on or before the date fixed for his appearance in Court.

(c) In Summary suits the defendants shall file an appearance in person or a vakalatnama, as the case may be, within ten days from the service of the Writ of Summons.

89. [2][Deleted]

[1]**[90. Judgment for want of written statement.—** The procedure as provided in Order VIII, rule 10 shall be followed for the judgment for want of written statement.]

91. [2][*Deleted*]

92. Written statement by plaintiff.—Where Written Statement is called for from the plaintiff, the Court or the Judge in Chambers will direct when it is to be filed and when to be served upon the defendant.

93. Set-off by defendant.—A defendant in a suit for the recovery of money in addition to his right of pleading a set-off allowed under Order VIII, Rule 6 of the Code of Civil Procedure, may set-off a claim for damages provided it arises out of the same transaction as the transaction in the suit. Such set-off shall have the same effect as a cross-suit so as to enable the Court to pronounce a final judgment both on the original claim and the cross claim and the plaintiff (if so advised) shall be at liberty to file a Written Statement in answer to the set-

1. Substituted vide Notification No. G / Amend/610/2022, dated-24-03-2022
2. Deleted vide Notification No. G / Amend/610/2022, dated-24-03-2022

TOP

off within [1][Thirty days] after service upon him or his Advocate on record of a copy of the defendant's Written Statement.

94. Judge may disallow set-off.—The Judge may on the application of the plaintiff at any stage of the proceedings in a suit, if in the opinion of the Judge such set-off cannot be conveniently disposed of in the pending action or ought not to be allowed, refuse permission to the defendant to avail himself thereof, and require him to file a separate suit in respect thereof.

[1][**95. Counter-claim by defendant.—** The procedure as provided in Order VIII Rule 13 to 22 (as amended for Bombay) of Code of Civil Procedure shall be followed for Counter-claim by defendant.]

96. Grounds in support of counter-claim to be specifically stated.—Where any defendant seeks to rely upon any ground as supporting a right of counter-claim he shall in his Written Statement state specifically that he does so by way of counter-claim.

97. Title of counter-claim.—Where a defendant by his Written Statement sets up a counter-claim which raises questions between himself and the plaintiff or between himself and the plaintiff along with other persons, he shall add to the title of his Written Statement a further title similar to the title in a plaint, setting forth his own name as plaintiff to the counter-claim and the names of persons against whom the counter-claim is made as defendants to the counter-claim and shall deliver copies of his Written Statement and counter-claim to such of them as are already parties to the suit within the period within which he is required to deliver it to the plaintiff.

98. Claim against person, not party.—Where any such person as in the last preceding rule mentioned is not already a party to the suit, he shall be summoned to appear by being served with a copy of the Written Statement and counter-claim and such service shall be regulated by the same rules as are applicable in respect of the service of a Writ of Summons. Every Written Statement and counter-claim so served shall bear an endorsement at the foot thereof requiring the defendant to the counter-claim to file his appearance in person or a vakalatnama

1. Substituted vide Notification No. G / Amend/610/2022, dated-24-03-2022

TOP

and reply to the counter-claim within [1][thirty days] from the service upon him of the Written Statement and counter-claim and notifying that if he fails to do so, he will be liable to have a decree passed against him in his absence. The endorsement shall be in Form No. 15 or to the like effect.

99. Appearance by third parties.—Any person not a defendant to the suit, who is served with a Written Statement and counter-claim as aforesaid, shall appear therein as if he had been served with a Writ of Summons to appear in the suit.

[1]**[100. Reply to counter-claim.**— The rules relating to a written statement by a defendant shall apply to reply to counter-claim**.]**

101. Exclusion of counter-claim.—Where a defendant to the suit sets up a counter-claim, if any defendant to the counter-claim contends that the claim thereby raised ought not to be disposed off by way of counter-claim but that the defendant to the suit should be referred to a separate suit, he may, at any time before the expiry of the time for filing his reply to the counter-claim, apply to the Court or the [1][Judge] for an order that such counter-claim may be excluded from the suit, and the Court or the Judge may, on the hearing of such application, make such order as it or he thinks fit.

102. Discontinuance of suit.—If in any case in which a defendant sets up a counter-claim the suit of the plaintiff is stayed, discontinued or dismissed, the counter-claim may nevertheless be proceeded with.

103. [2]**[*Deleted*]**

104. Judgment for balance.—Where in any suit a set-off or counter-claim is established as a defence against the plaintiff's claim, the Court or the Judge may, if the balance is in favour of the defendant, give judgment for the defendant for such balance, or may otherwise adjudge to the defendant such relief as he may be entitled to upon the merits of the case.

1 . Substituted vide Notification No. G / Amend/610/2022, dated-24-03-2022
2 . Deleted vide Notification No. G / Amend/610/2022, dated-24-03-2022

TOP

105. Payment with denial of liability.—In an action for damages the defendant may at any time after he has filed his appearance in person or a vakalatnama pay into Court a sum of money in satisfaction of the plaintiff's claim with a denial of liability.

Notice of such payment shall be given to the plaintiff. The Notice shall be in Form No. 16 with such variations as the circumstances may require.

106. Mode of withdrawing money paid with denial of liability.—After the money is paid into Court under the last preceding rule, the plaintiff may within seven days of the receipt of the notice of payment into Court apply by Chamber Summons for payment of the said money to him in satisfaction of his claim and the Judge may at the hearing of the summons make such order as to payment of the money and costs as he may think fit.

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TOP

CHAPTER VIII

THIRD PARTY PROCEDURE

107. Third party notice.—Where in a suit a defendant claims against any person not already a party to the suit (hereinafter called the third party)—

(a) that he is entitled to contribution or indemnity, or

(b) that he is entitled to any relief or remedy relating to or connected with the subject matter of the suit and substantially the same as some relief or remedy claimed by the plaintiff, or

(c) that any question or issue relating to or connected with the subject matter of the suit is substantially the same as some question or issue arising between the plaintiff and the defendant and should properly be determined not only as between the plaintiff and the defendant but as between the plaintiff and the defendant and the third party or between any or either of them,

he may apply to the Judge in Chambers for leave to issue a notice (hereinafter called the 'third Party Notice") to that effect. The application shall be made by affidavit, stating the nature of the claim made by the defendant and the facts on which proposed Third Party Notice is based and may be made *ex-parte.* The application shall be made within four weeks from the service of the writ of summons upon the defendant.

108. Form and service of notice.—(1) The Third Party Notice shall state the nature of the claim made by the plaintiff against the defendant and the nature and grounds of the claim made by the defendant against the Third Party or the nature and the extent of any relief or remedy claimed by him against the Third Party or the nature of the question or issue sought to be determined and shall be sealed with the seal of the Court. It shall be served on the Third Party according to the rules relating to the service of the writ of summons and shall, unless otherwise ordered, be served within two weeks from the date of the order granting leave to issue the Third Party Notice. A copy of the plaint and a copy of the affidavit of the defendant in support of the Third Party Notice shall be served on the Third Party along with the Third Party Notice. Such Notice shall be in Form No.17 or No.18 with such variations as the circumstances of the case may require.

TOP

(2) A copy of the Third Party Notice and the affidavit of the defendant in support of the Third Party Notice shall be furnished to all parties to the suit within two weeks from the date of the order granting leave to issue the Third Party Notice.

109. Effect of service of notice.—The Third Party shall, as from the time of the service upon him of the Notice, be a party to the suit with the same rights in respect of his defence against any claim made against him and otherwise as if he had been duly sued in the ordinary way by the defendant.

110. Third party to enter appearance or vakalatnama.—If the third party desires to dispute the plaintiffs claim in the suit as against the defendant on whose behalf the Notice has been issued or his own liability to the defendant, the Third Party shall enter an appearance in person or a vakalatnama in the suit within two weeks from the service of the Notice:

Provided that a person so served and failing to appear within the said period of two weeks may apply to the Judge in Chambers for leave to appear and such leave may be given on such terms, if any, as the Judge may think fit.

111. Consequence of failure to enter appearance or vakalatnama.—If the Third Party does not enter an appearance in person or a Vakalatnama he shall be deemed to admit the claim stated in the Third Party Notice and shall be bound by any judgment or decision in the suit, whether by consent or otherwise, in so far as it is relevant to any claim, question or issue stated in the Notice.

112. Decree when third party makes default in appearance or vakalatnama.— Where the Third Party makes default in entering an appearance in person or a vakalatnama in the suit—

(1) in cases where the suit is tried and results in favour of the plaintiff, the Judge who tries the suit may, at or after the trial, pass such decree in favour of the defendant against the Third Party as the nature of the case mayrequire

Provided that execution thereof shall not issue without the leave of the Judge in Chambers until the decree against the defendant has been satisfied, and

TOP

(2) in cases where the suit is decided in the plaintiffs favour, otherwise than by trial, the Judge may, at any time after the decree against the defendant has been satisfied, on the application of the defendant by Notice of Motion pass such decree in favour of the defendant against the Third Party as the nature of the case may require.

113. Third party to file **affidavit in reply.—**If the Third Party enters an appearance in person or a vakalatnama he shall file within two weeks thereafter an affidavit in reply to the affidavit of the defendant in support of the Third Party Notice, setting out his case in respect of the Third Party Notice and his case, if any, in respect of the plaint.

114. Appearance or vakalatnama of third party.—(1) Where the Third Party enters an appearance in person or a vakalatnama and files his affidavit as required by the last preceding rule, and the suit appears on board for directions before the Judge in Chambers, the Judge may—

(a) Directions to be given.—order any claim, question or issue stated in the Third Party Notice to be tried in such manner, before, at or after the trial of the suit, as the Judge may think fit and may, in that event, give the Third Party leave to defend the suit either alone or jointly with any defendant, upon such terms as he may think just, or to appear at the trial and take such part therein as he may think just and generally may make such orders and give such directions as to the Judge may appear proper for having the questions and the right and liabilities of the parties most conveniently determined and enforced and as to the extent to which the Third Party shall be bound or made liable by any decree in the suit, or

(b) dismiss the Third Party notice.

(2) Any order made or direction given under this rule may be varied or rescinded by the Court or the Judge in Chambers at any time before the disposal of the suit.

115. Defendant to take out chamber summons for directions in certain cases.- Where for any reason it is not possible for the Court to give directions on the Third Party Notice at the time when the suit appears on the board for directions, the

TOP

defendant issuing the Third Party Notice shall, within two weeks, after the filing of the affidavit in reply by the Third Party, apply for directions by Chamber Summons addressed to the Third Party and to all parties to the suit. Upon the hearing of such Summons, the Judge may pass such orders and give such directions as are mentioned in the last preceding rule.

116. Costs.- The Court or the Judge in Chambers may decide all questions of costs as between a Third Party and the other parties to the suit, and may order any one or more to pay the costs of any other, or others, or give such direction as to costs as the justice of the case may require.

117. Setting aside third party proceedings.- Proceedings on a Third Party Notice may, at any stage of the proceedings, be set aside by the Court or the Judge in Chambers.

118. Right of the third party and of each successive third party to apply for third party notice against other persons.-(1) Where the Third Party makes against any person not already a party to the suit (to be called "the second 'third party"') such a claim asis mentioned in rule 107 he may by leave of the Judge in Chambers issues a Third Party Notice to that effect.

(2) Where the second "Third Party" in his turn makes such a claim as is mentioned in rule 107 against any person not already a party to the suit (to be called "the third 'Third Party"') or where each successive Third Party in his turn makes such a claim against any person not already a party to the suit, such second "Third Party" or any successive Third Party in his turn makes such a claim against any person not already a party to the suit, such second "Third Party" or any successive third party may, by leave of the Judge in Chambers issue a Third Party Notice to that effect.

(3) The provisions contained in the preceding rules as to the Third Party procedure shall, with necessary modifications, apply to all cases where Third Party Notices have been issued, whether at the instance of the Third Party or any successive Third Party.

TOP

119. Right of defendant to issue third party notice against co-defendant.- (1) Where a defendant makes against a co-defendant such a claim as is mentioned in rule 107 he may, without leave of the Judge in Chambers, issue and serve on such co-defendant within six weeks from the service of the Writ of Summon upon him (the defendant making the claim), a notice stating the nature and grounds of such claim and shall at the same time file an affidavit in support of such claim and furnish copies thereof to all parties in the suit.

(2) The provisions contained in the preceding rules regarding Third Party procedure shall, with necessary modifications, apply to cases where a defendant has issued such notice against a co-defendant, but nothing herein contained shall prejudice the rights of the plaintiff against any defendant in the suit.

120. Third Party proceedings in a counter-claim.-Where in any suit a counter- claim is made by a defendant, the provisions contained in the preceding rules regarding Third Party procedure shall, with any necessary modifications, apply in relation to the counter- claim as if the subject-matter of the counter-claim were the subject matter of the suit, and as if the person making the counter-claim were the plaintiff and the person against whom it is made a defendant.

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TOP

[1]CHAPTER IX

CHAMBER WORK

1 . Deleted Chapter IX by Notification no. G/Amend/12878, dated 05.10.2018

TOP

[1][CHAPTER IX-A
INTERIM APPLICATIONS

121 IX-A. Interim Applications – All applications for interim relief in any matter shall be filed and numbered in the registry as Interim Applications in the main Proceedings. Every such application, after description of parties, shall state in bold letters as to under which provisions of law the interim Application has been filed.

122 IX-A. Interim Applications to appear on Board – All interim applications shall be listed on the date assigned by the Registry provided that the Court may, in its discretion and on an application made by precipe specifying the urgency and need for urgent reliefs, direct such interim Application to be taken up on any earlier date. At least 48 hours' notice shall be given by the party seeking such urgent reliefs to the opposite parties. Nothing in the rule shall preclude any Court from passing an *ex parte* order in appropriate cases.

123 IX-A. Applications in Execution, etc. – Applications for confirming sales in execution, or under a decree, whether held by the Sheriff or by the Commissioner for taking Accounts or by the Receiver shall also be by way of Interim Applications.

124 IX-A. Interim Applications to be heard by Court hearing principal matter – All Interim Applications be heard by the Court to which the principal matters are assigned.

125 IX-A. Form of Interim Applications. – Every Interim Application shall be in the form of a petition setting out therein a brief statement of the relevant facts, the grounds in support of such application, a specific reference to the provision of the Code of Civil Procedure, 1908, these Rules or any other law under which it is made, prayers in the form of reliefs sought; and shall be signed, verified and affirmed in the same manner as a petition. No separate Affidavit in Support of such Interim Application shall be required.

126 IX-A. Signed undertaking required – Every Interim Application shall, in addition to the above, contain, in the body of the Interim Application, a signed statement of the party making such Application undertaking to pay such sum by way of damages or costs as the

1. Inserted by Notification No.G/Amend/12878., dated 5.10.2018

TOP

Court may award as compensation in the event of a party affected sustaining prejudice by any order that might be made on such Interim Application. The Court may, in its discretion, while making the order on the Interim Application dispense with undertaking.

127 IX-A. Notice to opposite party - Notice of any Interim Application shall be given by the party making the application to the opposite party and shall be not less than seven days before the returnable date of such Interim Application, unless otherwise provided by the Court.

128 IX-A. Filing of reply by the Opponents/Respondents named in the Interim Application – The Opponent(s)/Respondent(s) shall file his/their Affidavit or Affidavits in Reply, if any, together with copies of documents on which they rely no later than three days prior to the date fixed by the Court in the notice or on any subsequent dates to which the proceedings have been adjourned with the leave of the Court.

129 IX-A. No Affidavit in Rejoinder without leave – No Affidavit in Rejoinder shall be filed without leave of the Court.

130 IX-A. Procedure at the hearing of the applications – All the applications under these rules be decided on the basis of affidavits of the parties.

131 IX-A. Powers of Officer designated by Prothonotary and Senior Master to decide Interim Applications – The High Court may by general or special notification confer the power of the Court to decide certain interim applications on the Prothonotary and Senior Master.

[1][In exercise of powers conferred under amended Rule 131 IXA of Bombay High Court Original Side Rules, 1980, the High Court directs that following matters shall be disposed of by the Prothonotary and Senior Master:-

(1) Applications for the appointment of a guardian-ad-litem of a minor.

(2) Applications for the appointment of a new next friend or a new guardian-ad-litem of a minor.

(3) Applications for substituted service of the writ of summons and other process.

1 . Amended Rule 131 IXA by Notification No. G/Amend/1208/B, dated 6th October, 2020.

TOP

(4) Uncontested Applications to amend the plaint or subsequent proceedings or to strike out any matter therein.

(5) Applications arising from the death, marriage or insolvency of parties to suits, matters or appeals or from the assignment, creation or devolution of any estate or title pendente-lite.

(6) Application relating to the conduct or frame of suits previous to the hearing, unless the suit is on one of the boards for the day.

(7) Applications for leave to sue or defend as an indigent person.

(8) Applications for discovery and for productions and inspection of documents.

(9) Application for the taxation and delivery of bills of costs of attorneys.

(10) Applications for the delivery by an Attorney of deeds, documents and papers.

(11) Applications for the delivery by an Advocate on record of deeds, documents and papers.

(12) Application under rule 73 and 75 for fixing the returnable date of the writ of summons.

(13) Application under rule 87 for an order that the suit be not placed on Board for dismissal.

(14) To grant refund of Court Fees when orders are passed under rule 163.

(15) Application under rule 176 to enlarge the time to file interrogatories, etc.

(16) Applications under rule 185 for payment of expenses to witnesses.

(17) Application under rule 187 or 188 for discharge or change of advocate, except when such applications are made in criminal case under the companies act, 1956, or the banking regulation act, 1949, in such cases the said applications shall be referred to and heard by the company judge seized of the criminal case.

(18) Assignment of Advocate under rule 215 to assist suitors in matters filed by indigent persons.

(19) Application under rule 448 for an order directing the Sheriff to accept the wirt of summons for service.

(20) Application under rule 631 for translation of document.

(21) Suits (except the commercial suits) for directions as to which List of Suits should be transferred after service is effected and consequential orders thereto.

Such of these matters or categories of matters as may be delegated by the Prothonotary and Senior Master to the Additional Prothonotary and Senior Master shall be disposed of by the Additional Prothonotary and Senior Master; subject to approval of the Hon'ble the Chief Justice:

Provided that where any matter appears to the Prothonotary and Senior Master or the Additional Prothonotary and Senior Master proper for the decision of a Judge, the

TOP

Prothonotary and Senior Master or the Additional Prothonotary and Senior Master may refer the same to the Judge in Chambers, and the Judge may either dispose of the matter or refer the same back to the Prothonotary and Senior Master or the Additional Prothonotary and Senior Master with such directions as he may thinks fit.]

132 IX-A. Adjournment of matter to Court – Any party desiring to have any question to be decided by the Prothonotary and Senior Master, whether disputed or not, adjourned to Court, may apply to the Prothonotary and Senior Master for such adjournment within 4 days from the passing of the order. If the application is within time, the Prothonotary and Senior Master shall adjourn the matter and list it before the Court assigned to hear such matters. If the party makes the application after the said period of four days, the Prothonotary and Senior Master may adjourn the matter to Court if he is satisfied that the party had sufficient cause for not making the application in time. The Prothonotary and Senior Master may also *suo-motu* adjourn any matter to Court.

133 IX-A. Interlocutory orders passed not to be drawn up – Orders made on interim applications shall not be drawn up.

134 IX-A. Drawing up of orders required to be drawn up as decrees. – (a) The provisions of the Code of Civil Procedure, 1908 relating to drawing up of decrees shall apply mutatis mutandis to orders required to be drawn up as decrees.

(b) Draft of such drawn up decrees shall be posted on the High Court Website under the Case Status section and shall also be emailed to the Advocate on Record or the Party concerned to the email address provided and shall also be put up on the notice board of the decree department.

(c) Any Advocate or party may inspect such draft in the Decree Department on an oral application.

(d) If no objection is raised by the Advocate or party concerned to the form or contents of the drawn up decree or order within the time fixed for the same, the draft shall be settled and finalized by the officer designated for that purpose.

(e) Any Advocate or party dissatisfied with the finalized drawn up decree or order may apply to the Prothonotary and Senior Master within one week of the date of finalization to have the same placed before Court, failing which the finalized and settled draft shall be deemed to

TOP

have been accepted. If the draft is so placed before the Court, any variation made by the Court shall forthwith be incorporated in the draft.

(f) All final drawn up decrees and orders shall be signed by the Registrar (OS/ Prothonotary and Senior Master or by a designated officer, and shall bear the seal of the Court.

(g) Orders passed by a Court which have not been signed by the Judge and which have been ordered to be drawn up; and all orders passed by the Prothonotary and Senior Master and ordered to be drawn up, shall be signed by the Prothonotary and Senior Master and shall bear the seal of the Court.

*****

TOP

[1]CHAPTER X

NOTICE OF MOTION

1 . Deleted Chapter X by Notification no. G/Amend/12878, dated 05.10.2018.

TOP

CHAPTER XI

MATTERS ARISING PENDING SUIT

150. *Ex-parte* applications for formal amendment of pleadings and other documents: - Applications for amendment of pleadings and other documents for the purpose of rectifying some clerical error or errors in names, dates or sums may be made in Chambers without giving notice to the opposite side.

151. Amendment how to be made :- If in any amendment the new matters does not exceed in any one place three folios, the original record shall be amended by an interalienation, or if the amendment be by omitting some original matter, the said matter shall be struck out of the record. In all other cases a new document shall be engrossed and annexed to the original. The first amendment shall be made or indicated in red ink and subsequent amendments shall be made or indicated in different coloured inks.

152. Attestation of amendment: - Any amendment made pursuant to an order shall be attested by the Prothonotary and Senior Master or Master and Assistant Prothonotary or any one of the Assistant Masters or Associates.

153. Postponement of suits by Prothonotary and Senior Master :- The Prothonotary and Senior Master may, on the written application of the plaintiff or his Advocate on record, postpone the hearing of a suit, whether it be for final disposal, or for giving directions or otherwise :

(a) if the writ of summons has not been served and the defendant or defendants has or have not appeared; or
(b) if the plaintiff and the defendant or defendants or such of them as have been served or appeared consent thereto in writing; or
(c) when the consent of the defendant or defendants or such of them as have been served or appeared cannot for good and sufficient cause be obtained, if the plaintiff undertakes to give notice of the postponement to such defendant or defendants;

TOP

Provided, however, that no postponement shall be granted in a suit which has been pending for more than twelve months. In such a case, the application shall be submitted for orders to the Judge in Chambers.

154. Postponement of petitions etc. by Prothonotary and Senior Master:- The provisions of Rule 153 shall, with any necessary modifications, apply to the hearing of petitions, applications and all other matters, save and except that no postponement shall be granted by the Prothonotary and Senior Master in a petition to set aside an award, which has been pending for more than six months. In such a case, the application for postponement shall be submitted for orders to the Judge in Chambers.

155. Postponement in peremptorily adjourned suits:- No postponement shall be granted by the Prothonotary and Senior Master in any suit which has been peremptorily adjourned to any particular date by the Court, but the preceipe setting out the grounds for adjournment shall be submitted to the Judge who granted the peremptory date or in his absence to the Judge in Chambers.

156. Application affecting the daily board of a Judge to be made to that Judge: - An application which affects the state of the daily board of a particular Judge shall ordinarily be heard by that Judge.

157. Directions to be given :- When a suit appears on the board of the Judge in Chambers for directions, the Judge shall, for the speedy determination of the suit and the avoidance of multiplicity of interlocutory proceedings, give such directions with respect to pleadings, interrogatories, particulars, admission of facts and documents, examination of witnesses, discovery, inspection and production of documents, fixing a date for settling issues and for trial of any issues as preliminary issues, fixing a date for hearing of the suit and such other matters, as he may think fit.

158. No affidavit to be made: - No affidavit shall be made or used by any party when the suit is on board for directions, except by leave of the Judge.

159. Duty to make all interlocutory applications when suit on board for directions :- When a suit appears on the board of the Judge in Chambers for directions, the parties to the

TOP

suit shall, so far as practicable, apply for any order or directions which they may desire as to any matter capable of being dealt with on an interlocutory chamber application in the suit and the party intending to so apply shall, not less than four days before the date on which the suit is due to be placed on board for directions, serve on the other parties a notice in writing specifying the orders and/or directions which he seeks.

160. Subsequent application: - If any party to a suit desires to apply for any order or directions after the first directions have been given by the Judge, he shall apply by Chamber Summons for such order or directions. If the Judge is of opinion that such application could properly have been made when the first directions where given, he may direct that the party applying shall in any event pay the costs of such application.

161. Further written statement by leave may be field:- Where a ground of defence arises after the defendant has filed his Written Statement the defendant may, within two weeks after such ground of defence has arisen, or at any subsequent time, by leave of the Court or the Judge in Chambers file a further Written Statement setting forth the same and in such case shall forthwith serve a copy thereof upon the plaintiff or his Advocate on record.

162. Plaintiff's confession of such defence and procedure thereon :- Whenever any defendant in his written statement or any further Written Statement alleges any grounds of defence which have arisen after the commencement of the suit, the plaintiff may file a confession of such defence in Form No. 19 and, if such defence is an answer to the whole suit may thereupon apply to the Judge in Chambers for leave to withdraw the suit and for a decree for his costs of the suit or further Written Statement, as the case may be.

163. Prothonotary and Senior Master may draw up order for dismissal or withdrawal of suit:- When a suit has been settled or compromised before the hearing, the Prothonotary and Senior Master may, on the application of preceipe of a party to the suit or his Advocate on record and with the consent of the other parties thereto or their Advocates on record pass an order for the dismissal or unconditional withdrawal of the suit with such provisions as to costs as may have been agreed upon (Form No.20)

TOP

Discovery and Inspection

164. Agent may make affidavit of documents when a party is not residing in Greater Bombay:- Where the transactions which form the subject-matter of a suit have been carried on wholly or principally in Greater Bombay and any party is not residing in Greater Bombay at the time an affidavit of documents is required to be filed, such affidavit may be made on behalf of such absent party by his agent in Greater Bombay. For the purpose of this rule, a resident partner in Greater Bombay shall be the agent of his non-resident partner.

165. Procedure where the affidavit is required to be made by absent party personally :- If in the case provided for by the last preceding rule any party desires to have such affidavit made by all or any of the absent parties personally, he shall be at liberty to apply on summons for an order to that effect to the Judge in Chambers, setting forth the grounds for making such order, and the Judge after hearing the opposite party may make such order; but the party obtaining it shall, before serving the same, deposit a sum of rupees one hundred in Court for the cost of the opposite party of such order and affidavit which costs shall be dealt with by the Judge who tries the case.

166. Copies of photographs if relied on, to be furnished to the other side on payment of charges:- When photographs are annexed as exhibits to a pleading or when photographs are disclosed and relied on, the party seeking to use them shall, on request, furnish a sufficient number of copies of such photographs to the other side on payment of a due proportion of the photographer's charges properly incurred.

167. Notice of application for interrogatories: - No application for an order for delivering interrogatories shall be heard without giving previous notice of the same to the other side.

168. Service of the order for discovery: - The party seeking discovery shall serve a copy of the order or of the minutes of the order for discovery with his interrogatories upon the other side and the time for answering or making discovery shall in all cases commence from the date of such service:

Provided such service shall not be necessary on a party appearing when the order was passed and in such case the time shall commence from the date of the Order.

TOP

169. Service on Advocate of order for interrogatories or discovery or inspection: - Service of an order for interrogatories or discovery or inspection made against any party or his Advocate on record or the presence of the Advocate for such party when the order is passed, shall be sufficient to found an application for an attachment for disobedience to the order. But the party against whom the application for an attachment is made may show in answer to the application that he has had no notice or knowledge of the order.

170. Liability of the Advocate to pay costs for neglect:- If an Advocate upon whom an order for interrogatories or discovery or inspection is served under the last preceding rule, neglects without reasonable excuse to give notice thereof to his client, he shall be liable to pay the costs occasioned by his neglect or such part thereof as the Court may think fit.

171. Discovery against Sheriff:- In any suit against or by the Sheriff in respect of any matters connected with the execution of his office, the Court or the Judge in Chamber may, on the application of either party, order that the affidavit to be made in answer either to interrogatories or to an order for discovery shall be made by the officer actually concerned.

172. Effect of non-disclosure of documents :- No documentary evidence in the possession or power of any party, which should have been but has not been disclosed in the affidavit of documents, or which is required to be disclosed in a supplementary affidavit of documents and has not been disclosed shall be received at any subsequent stage of the proceedings, unless good cause is shown to the satisfaction of the Court for the non-disclosure thereof; and the Court receiving any such evidence shall record the reasons for so doing.

173. Removal of suits and matters from the lists of References to the Commissioner and placing them on board for directions:- (i) Where a suit or matter is referred to the Commissioner for the purpose of taking an account, the party having the carriage of the proceedings shall file a certified copy of the decree or order of reference in the office of the Commissioner within ten days from the date of the sealing of the decree or order and shall inform the Prothonotary and Senior Master of his having done so. If such intimation is not given to the Prothonotary and Senior Master within the said period of ten days, the Prothonotary and Senior Master shall, unless otherwise ordered, remove the suit or matter from the list maintained by his office of matters referred to the Commissioner.

TOP

(ii) Suits and matters which the Commissioner has certified for non-prosecution or for refusal or neglect of a party to do or perform any act which he was directed to do or perform and suits and matters which have been settled or otherwise concluded and suits and matters in which reports have been made disposing of the case shall also be removed from the said list maintained by the office of the Prothonotary and Senior Master.

(iii) Suits and matters which are removed from such list under sub-rule(i) or which are removed on the ground that the Commissioner has certified them for non-prosecution or for refusal or neglect of a party to do or perform the required act shall be set down for directions before the Judge in Chambers. The Prothonotary and Senior Master shall notify on his notice board the date on which the suit or matter is to be set-down and he shall do so at least eight days before such date. If a party has appeared in person, the Prothonotary and Senior Master shall give notice of the date to such party by sending letter to him by post under certificate of posting.

The Judge may give such directions as he may deem fit.

174. Application for examination of witness under Order 18, rule 16 or section 76, or Order 26, Rules 1 and 4 of the Code of Civil Procedure:- When a party to a suit applies for an order for the examination of a witness under Order XVIII rule 16 or for the issue of a Commission under section 76 or Order XXVI, rules 1 and 4 of the Code of Civil Procedure, he shall give notice of the application to the other party or parties. The application shall be made to the Judge in Chambers.

[1]**[174A.** On receipt of the examination in Chief, of the witness on affidavit with documents under Order 18, Rules4 (Amendment Act, 2002 of the Code of Civil Procedure), the Court may appoint a Commissioner from the Panel of Advocates prepared by the High Court of Judicature at Bombay for recording cross-examination or re-examination of the witnesses, as the case may be.

174B. (i) The Penal of the Commissioner shall be formed of Retired Judges and from the Members of the Bar, practicing in the High Court at Bombay having minimum 3 years

1 . Rules 174A to 174G inserted by Notification No. G/Amend/16577, dated 23.11.2006, See 2006 M.G.G. Pt. IV-C, Pg. 117.

TOP

practice as an Advocate, having ability to record the evidence and willing to be appointed on the penal.

(ii) The penal of the Commissioner shall be prepared by the Prothonotary and Senior Master, in the month of April, after every 2 years or as per the directions of the Hon'ble the Chief Justice.

(iii) Where the Commissioner appointed under Rule 174-A dies or retires, leaving commission work incomplete, the Court may appoint another person from the Penal of Advocates, to carry out incomplete commission work.

174C. The commissioner appointed under Rule 174A would be entitled to remuneration at the rate of Rs. [1][3000] per hour, subject to minimum of Rs [1][3000] [1][and maximum of Rs.10,000] a day or such other rate as the Hon'ble Court may direct.

174D. If the remuneration of the Commissioner is fixed on per hour basis, after evaluating probably hours to be consumed for recording evidence and the approximate remuneration of the Commissioner, the parties to the proceeding shall deposit, it in the Court. Both the parties shall deposit the amount of remuneration 50 per cent each within a week from the date of order.

174E. The Commission charges deposited by the parties as per the order of the Court under Rule 174D shall be the costs in the cause.

174F. The Commissioner appointed as per Rule 174A shall have power to administer Oath and all the other powers under Order XVIII of the Code of Civil Procedure.

174G. The Commissioner to fix date, time and place of the Commission work in consultation with parties to the proceedings or as per the order of the Court.]

175. Examination of witness under Order 18, Rule 16 or Order 26, Rule 1 of the Code of Civil Procedure:- The examination of a witness under order XVIII, Rule 16 or Order XXVI,

1 . Substituted & inserted by Notification No. G/Amend/1208/A, dated 06-10-2020.

TOP

Rule 1 of the Code of Civil Procedure shall be deemed to be a *quasi-judicial* act and shall, unless otherwise ordered, be taken by the Prothonotary and Senior Master or such officer in his office as he may appoint.

176. Procedure when evidence is to be taken on interrogatories :- If an order is made on the application of a party for the issue of a commission under section 76 or Order XXVI, Rule 4 of the Code of Civil Procedure and the opposite party joins in the said commission and the evidence is to be taken on interrogatories, each party shall file his interrogatories-in-chief with the Prothonotary and Senior Master and deliver a copy thereof to the opposite party within a fortnight from the granting of such order. In all such cases, cross-interrogatories shall be filed within ten days from the service of the copy of the interrogatories-in-chief and re-interrogatories within six days from the service of the cross-interrogatories; in default of such filing, the commission may be issued, but in any of the above cases of cross or re-interrogatories, application may be made to the Judge in Chambers to enlarge the time.

177. Preparation etc. of commission :- The commission shall be prepared by the Prothonotary and Senior Master, who shall seal the same and annex thereto the interrogatories, cross-interrogatories and re-interrogatories, if any, and shall forward it in a sealed envelope to the Commissioner therein named, with a direction that the same be returned to him when executed. (Form No. 24)

178. Deposit of fees of the Commissioner: - Whenever a commission is to be sent outside the local limits of the High Court, the Advocate on record at whose instance the commission is issued shall deposit within the Prothonotary and Senior Master of rupees two hundred as an advance towards the payment of the fees of the Commissioner in question, and undertake at the same time to pay a further sum in case the fees of the Commissioner exceed the amount deposited.

179. Procedure in examination of witness :- The Officer taking an examination under the preceding rules shall have regard to the provisions of the Indian Evidence Act and shall, in case the Advocate examining the witness presses any question which such officer shall have disallowed, record such question and the answer thereto, but the same shall not be admitted as evidence unless the Judge before whom the deposition is put in evidence shall so direct,

TOP

Where dates according to a calendar other then the Gregorian calendar are mentioned, the officer shall add thereto the corresponding dates according to the Gregorian calendar.

180. Deposition of witness to be read over to and signed by him: - After the deposition of any witness shall have been taken down and before it is signed by him it shall be distinctly read over and, when necessary, translated to the witness in order that mistakes or omissions may be rectified or supplied. The deposition shall be signed by the witness and left with the Officer, who shall subscribed thereto his name and date of the examination.

181. Order necessary for summons to witness outside local limits:- No summons to give evidence or produce documents shall be issued by the Prothonotary and Senior Master to compel the attendance, as witness, of any person resident, and at the time residing, beyond the local limits of the High Court, unless so directed by an order of the Court or of a Judge in Chambers.

182. Order necessary for production of public documents :- (a) No summons letter of request for the production of a public document shall be issued by the Prothonotary and Senior Master, unless so directed by an order of the Court or of a Judge in Chambers.

(b) A letter of request may be substituted for a witness summons where the person summoned to give evidence or to produce documents is, in the opinion of the Prothonotary and Senior Master, of a rank entitling him to such mark of consideration.

183. Payment of expenses and allowances to witness :- Every person summoned to give evidence shall have tendered to him with the summons a reasonable sum for his travelling and other incidental expenses for going to an returning from the Court House and an allowance at the rates hereunder mentioned for the first day's attendance, and shall, if obliged to attend for more then one day, be entitled, before giving his evidence, to claim from the party by whom he shall have been summoned an allowance at the said rates for each additional day that he may be required to attend.

TOP

Class of Witness	Travelling Allowance	Allowance	Local Conveyance Allowance
Class I Professional men of high position, Members of parliament and of the State Legislature, large land owners and owners of big business organizations, and Class I Government Officials who are required to attend in their private capacity.	First Class Rail or Steamer Fare	Rs. 20 per day	Actual taxi or horse carriage fare each way. From the place where he is put upto the place where he is required to give evidence, if he is put up within a radius of 8 Kms from the place where he is required to give evidence, and if put up beyond 8 Kms. First class local rail fare each way.
Class II Members of Local Bodies, ordinary professional and business men, land owners, other than small farmers employee in business organizations, Corporations and local bodies and Class II Government Officials who are required to attend the Court in their private capacity.	Second Class Rail or Steamer Fare	Rs. 12 per day	Actual taxi or horse carriage fare each way, from the place where he is put up to the place where he is required to give evidence, if he is put up within a radius of 8 Kms. From the place where he is required to give evidence, and if put up beyond 8 Kms. First class local rail fare each way.
Class III Artisans, Clerks, small land owners, village officers, and employees in lower grades of Corporations, local bodies and business organizations and Class III Government Servants who are required to attend the Courts in their private capacity.	Second Class Rail or Steamer Fare	Rs. 8 per day	Actual bus or Second Class local rail fare each way.

TOP

Class IV Labourers, petty shop keepers, peddlers and persons other than those in the above classes and Class IV Government Servants who are required to attend the Court in their private capacity.	Second Class Rail or Steamer Fare	Rs. 4 per day	Actual bus or Second class local rail fare each way.

Note 1. – If there is rail as well as steamer communication between both the places for the whole of the distance, the cheaper of the two modes of travel will be admissible for traveling allowance.

Note 2. – If there is rail communication only for part of the distance and steamer communication for the rest, travel by rail and steamer for the parts for which they are respectively available shall be admissible for traveling allowance.

Note 3. – If in addition to traveling by rail and/or steamer a witness is required to travel by bus also, the actual bus fare paid for such part of the journey shall also be admissible for traveling allowance.

Note 4. – Allowance shall be payable, irrespective of the distance traveled, 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 day.

Note 5. – Local conveyance allowance shall be admissible for each day that the witness is required to attend the Court at Bombay and shall be payable only if the party calling the witness does not provide conveyance to the witness.

Note 6. – The Prothonotary and Senior Master shall decide to which class a witness belongs or which of the alternative modes of traveling should be allowed in particular case. A witness dissatisfied by his decision may request that a reference be made to the Judge and

TOP

upon such request the question shall be referred to the Judge. The Judge thereupon shall give such directions as he thinks just and proper in the case.

Note 7. – In the case of Experts and professional persons and in case in which the Judge thinks special rates should be awarded, the Judge may award higher rates of allowance then provided for in this scale.

Note 8. – In cases not fully or clearly covered by this scale or in cases where the Judge thinks special considerations should prevail the Judge shall award such amounts for traveling allowance, allowance and local conveyance allowance as he deems proper.

184. When witness disentitled to payment of expenses and allowances :- Any person who shall refuse to state to the Advocate on record of the party summoning him, or to his clerk, the substance of the evidence he can give shall not be entitled to the expenses and allowance mentioned in the last preceding rule without an order of the Court.

185. Enforcement of payment of expenses and allowances: - Witnesses who have not been paid their expenses and/or allowances as provided by rule 183 may apply to the Court or to the Judge in Chambers at any time in person for an order for payment of such expenses and/or allowances.

186. Duration of Advocate's retainer: - An Advocate on the record of a suit or matter shall continue to represent his client until an order of discharge is obtained or until all proceedings in the suit or matter are ended so far as regards the client.

All proceedings referred to in Order III, rule 4(3) of the Code of Civil Procedure shall be deemed to be proceedings in the suit or matter.

Change and Discharge of Advocate

187. Client's application for discharge or change of his advocate: - When a party applies for an order for discharge or for change of his Advocate on record in a suit, matter or appeal, he shall unless otherwise ordered, give two clear days notice of his application to such

TOP

Advocate and the facts of such notice having been served shall be stated in the affidavit in support of the order.

188. Advocate's application for his discharge: - When an Advocate on record in a suit, matter or appeal applies for an order for his discharge, he shall, unless otherwise ordered, give two clear days' notice of his application to his client and the fact of such notice having been served shall be stated in the affidavit in support of the order.

189. Responsibility of Advocate for payment of fees: - An Advocate on the record of a suit or matter shall be responsible for court fees and/or fees chargeable under the rules of the High Court until an order for his discharge is obtained.

[1]**[189A.** For the purpose of Chapter VI, IX, X and XI of the High Court Original Side Rules, in addition to the other modes of service prescribed under the said Chapters, urgent notice/order/process may be served by Fax, Speed Post or Courier with acknowledgment, wherever such facility is available, at the cost of the parties. Such service shall be treated as good service upon production of the original Fax notice/order/process along with the activity report or acknowledgment in token of service of the notice/order/process by speed post or by Courier. Such acknowledgment purporting to be signed by the Defendant or an endorsement by Postal servant or Courier Agent that the Defendant refused service shall be deemed to be prima facie proof of service.]

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1 . Inserted by G.N.No. G/Amend/2404, dated 1.3.2001, See 2001 M.G.G. Pt. IV-C, Pg. 37.

TOP

CHAPTER XII

AFFIDAVITS

190. Evidence on petition, Notice of Motion or Chamber Summons. - Upon any petition, Notice of Motion or Chamber Summons, evidence may be given by affidavit; but the Court or the Judge in Chambers may, *suo motu* or on the application of either party, order the attendance for cross-examination of the person making such affidavit.

191. Title of affidavits.- Every affidavit shall be intuited in the suit or matter it is sworn, but in every case in which there are more plaintiffs or defendants than one, it shall be sufficient to state the full name of the first plaintiff or defendant, respectively, and to add that there are other plaintiffs or defendants, as the case may be.

192 Form of affidavit. - Every affidavit shall be divided into paragraphs, and every paragraph shall be numbered consecutively, and as nearly as may be, shall be confined to a distinct portion of the subject. Every affidavit and the annexures thereto shall be stitched book wise and shall comply with any necessary modifications, with the provisions of Rule 42.

193. Affidavit to be in the first person. - Every affidavit shall be drawn up in the first person.

194. Description and abode of deponent to be stated. - The occupation, nationality and the place of abode of every person making an affidavit shall be inserted therein.

195. Affidavit by two or more deponents. - In every affidavit made by two or more deponents, the names of the several persons making the affidavit shall be inserted in the jurat, except that if the affidavit of all the deponents is sworn at one time before the same officer, it shall be sufficient to state that it was sworn by both or all of the "abovenamed" deponents.

TOP

[1][**196. Before whom affidavits to be sworn. –** Affidavits shall be sworn either before the officers referred to in Rule 197 below or before persons mentioned in section 139 of the Code of Civil Procedure, 1908.]

197. Officers appointed to administer oaths.- The following Officers are appointed to administer oaths, declarations and affirmations to any person in respect of any judicial proceeding, which may be pending or about to be instituted in any Court in India:-

(1) Prothonotary and Senior Master,

(2) Commissioner for Taking Accounts,

(3) Court Receiver,

(4) Official Assignee,

(5) Taxing Master,

(6) Master and Assistant Prothonotary,

(7) Deputy Official Assignee,

(8) First Assistant to Court Receiver,

(9) Insolvency Registrar,

(10) Company Registrar,

(11) Account Officer,

(12) Assistant Master,

(13) First Assistant to Official Assignee,

(14) Second Assistant to Official Court Receiver,

(15) Associates,

(16) Chief Translators and Interpreter,

(17) Deputy Chief Translator and Interpreter,

(18) Assistant Chief Translator and Interpreter.

[2][(19) Deputy Sheriff of Bombay]

[3][(20) Masters (Adm.),

(21) Section Officers.]

198. Every exhibit to be dated and initialled. - Every exhibit annexed to an affidavit shall be dated and initialled by the Officer before whom the affidavit is sworn.

1 . Substituted by G.N. No. G/Amend/16226, dated 16th November 2007.
2 . Inserted by G.N. No. G/Amend/6494, dated 23rd May 2003.
3 . Sr. No. 20 & 21 added vide High Notification No. G/Amend/434 dated 24th June, 2015 published in M.G.G., Part 4C, Ex-Ordinary No. 41 dated 26th June, 2015.

TOP

199. Place of administering oaths to be stated when oath administered outside Court House.- The officer authorized to administer an oath or affirmation shall state at the foot of the affidavit the place where he has administered the oath or affirmation in the event of the same being administered elsewhere than in the Court House.

200. Affidavit not to be filed unless properly endorsed. - No affidavit shall be filed in the several offices of the Court unless properly endorsed, giving the names of the deponents, the date on which it is sworn, and stating by whom or on whose behalf it is filed.

201. Affidavit to be filed before use in Court or Chambers. - An affidavit shall be filed in the Prothonotary and Senior Master's Office before it is used in Court or Chambers:

Provided that the Court or the Judge in Chambers may if deemed fit order an affidavit tendered in Court or in Chambers to be taken on file.

202. Special time for filing affidavits. - Where a special time is fixed for filing affidavits, no affidavit filed after that time shall be used unless by leave of the Court or the Judge in Chambers.

203. Alteration in affidavit. - No affidavit having any interlineation, alteration, or erasure shall, without the leave of the Court or the Judge in Chambers, be read or made use of in any matter pending in Court, unless the interlineation, alteration or what is written on the erasure is authenticated by the initials of the Officer before whom the affidavit is sworn.

204. Use of defective affidavits. - The Court or the Judge in Chambers may receive any affidavit sworn for the purpose of being used in any suit or matter, notwithstanding any defect by misdescription of parties or otherwise in the title or jurat, or any other irregularity in the form thereof, and may direct a memorandum to be made on the document that it has been so received.

205. Affidavit by blind persons. - Where an affidavit is sworn by any person, who appears to the Officer administering the oath or affirmation to be blind, the Officer shall certify at the foot of the affidavit that the affidavit was read or read and interpreted (where necessary) in his presence to the deponent, that the deponent seemed perfectly to understand it, and that the deponent subscribed his signature or mark in the presence of the Officer, No such affidavit

TOP

shall be used in evidence in the absence of this certificate, unless the Court or the Judge in Chambers is otherwise satisfied that the affidavit was read over to and appeared to be perfectly understood by the deponent.

206. Scandalous matters. - The Court or the Judge in Chambers may order to be struck out from any affidavit any matter which is scandalous, and may order the close of any application to strike out such matter to be paid as between Advocate and client.

207. Procedure when affidavit is to be sworn outside Court House. - Where an affidavit is required to be sworn outside the Court House, a written application shall be made to the Prothonotary and Senior Master accompanied by the necessary stamps for the attendant's fee under the Table of Fees, stating where an Officer is required to attend, and for what purpose and why he is so required. On receipt of such application the Prothonotary and Senior Master shall, unless he sees any reason to the contrary, direct an officer to attend. So far as possible the Prothonotary and Senior Master shall direct the officers to attend in rotation.

208. Procedure when affidavit is to be sworn outside India. - When an affidavit is to be sworn at any place outside India where an Officer in the service of India cannot be found, such affidavit may be sworn before an officer appointed specially for the purpose, under a commission to be issued pursuant to an order to be obtained from the Judge in Chambers by the party requiring such affidavit to be sworn.

209. Affidavit to include plaint etc. - The word “Affidavit” in this chapter except in Rule 193 shall include Plaint, Written Statement, petition, and any document required to be sworn; and the words “swear” and “sworn” shall include “affirm” and “affirmed” respectively.

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TOP

CHAPTER XIII

SUITS BY INDIGENT PERSONS

210. Definition of the word "indigent".- A person shall be deemed to be an indigent person if he is not possessed of means exceeding one thousand rupees in value, or where he is possessed of means exceeding one thousand rupees in value the same are not sufficient to enable him to pay the fees prescribed by law for the plaint.

For the purposes of this definition the means which a person is possessed of shall be deemed not to include his necessary wearing apparel. Property exempt from attachment in execution of a decree and the subject-matter of the suit.

Explanation I. – Any property which is acquired by a person after the presentation of his application for permission to sue as an indigent person, and before the decision of the application, shall be taken into account in considering the question whether or not the applicant is an indigent person.

Explanation II.- Where the plaintiff sues in a representative capacity, the question whether he is an indigent person shall be determined with reference to the means possessed by him in such capacity.

211. Defendant may be allowed to defend as an indigent person. – The provisions contained in Order XXXIII of the Code of Civil Procedure and in these rules shall apply, with any necessary modifications, to a defendant and the Court or the Judge in Chambers may allow a defendant to defend the suits as an indigent person.

212. Application by an indigent person for leave to be by petition. – An application for permission to sue, to proceed with a suit or to defend a suit as an indigent person shall be made by petition, setting out concisely in separate paragraphs the facts and the relief prayed; such petition shall be presented to the Prothonotary and Senior Master who shall, on satisfying himself that the provisions of Order XXXIII of the Civil Procedure Code have been complied with and not otherwise, order it to be interpreted gratis, where necessary.

213. Notice for investigation.- On such petition being filed in the Office of the Prothonotary and Senior Master, on the application of an indigent person, a notice returnable before the Prothonotary and Senior Master, for investigation of the petitioners' claim that he is an indigent person, shall be issued.

TOP

214. Suit in ordinary form may be cautioned as by an indigent person. – The Court or the Judge in Chambers may allow a suit, which has been commenced in the ordinary form, to be continued as a suit by an indigent person.

215. Advocate may be appointed for indigent person. - Where a person is permitted to sue or defend as an indigent person, the Court or the Judge in Chambers may, if necessary appoint an Advocate to assist him, and an Advocate so appointed shall not be at liberty to refuse this assistance, unless he satisfies the Court or the Judge in Chambers that he has good reason for refusing. The Court or the Judge in Chambers may at any stage of the suit or matter withdraw legal assistance from such an indigent person, if it or he deems it proper to do so.

The Court or the Judge in Chambers may also, pending the inquiry into the claim that the indigent person is unable to pay the court-fees, appoint an Advocate to assist the petitioner for the purpose of any interlocutory application which may be made by any party before the inquiry is concluded. The Advocate so appointed shall not be at liberty to refuse his assistance unless he satisfies the Court or the Judge in Chambers that he has good reason for refusing. Such appointment shall come to an end after leave to sue or defend as an indigent person is refused. If leave to sue or defend as an indigent person is granted, the appointment of the Advocate to assist the indigent person shall continue.

216. Duty of Advocate in suits or matters by indigent persons.- It shall be the duty of the Advocate, who may be appointed to act for a person permitted to sue or defend as an indigent person, to take care that no notice is served, summons issued or petition presented without good cause and to report to the Court every six months the progress of the suit or matter.

217. No fees to be taken from indigent person. – Whilst a person sues or defends as an indigent person, no person who has been appointed by the Court to assist him shall take or agree to take or seek to obtain from him any fee, profit or reward for the conduct of his business in the Court, and any such person who takes or agrees to take or seeks to obtain any such fee, profit or reward shall be guilty of misconduct:

Provided that notwithstanding anything herein contained, the Court or the Judge in Chambers shall have power to award costs against the adverse party or out of the property

TOP

recovered in the suit and to direct the payment thereof to the Advocate representing the indigent person.

218. No compromise without leave of the Court. – No cause, suit or matter commenced or carried on by an indigent person whether plaintiff or defendant shall be compromised on any account whatever without leave first had and obtained from the Judge in Chambers or the Court.

219. Direction for payment of Court fees in every decree or order. – Unless otherwise ordered, in every suit in which an indigent party is concerned a direction shall be inserted in every decree or order for payment to Government of the Court-fees which he would have had to pay had he not been permitted to sue or proceed with the suit or defend as an indigent person.

220. Memo of fees to Government Advocate - In every suit in which an indigent person is indigent person is concerned; the Prothonotary and Senior Master after the disposal of the suit send to the Advocate to Government a memo of the court-fees due and payable by such an indigent person.

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TOP

CHAPTER XIV
SUMMARY SUITS

221. Summons for Judgment. – (i) In a suit filed under Order XXXVII of the Code of Civil Procedure, if the defendant enters an appearance in person or a vakalatnama the plaintiff shall apply by Summons for Judgment to the Judge in Chambers for a decree for the amount claimed, together with interest, if any, and costs. The summons shall be supported by affidavit, confirming the facts alleged in the plaint and stating that in the deponent's belief there is no defence to the suit. The summons shall be in Form No. 11 and shall be made returnable not less than ten clear days from the date of the service.

(ii) The defendant may apply on such summons for leave to defend the suit by filing an affidavit or affidavits, showing that he has a good defence to the suit on the merits or disclosing such facts as may be deemed sufficient to entitle him to defend.

(iii) Leave to defend the suit may be granted to the defendant unconditionally or upon such terms as to the Judge may seem just. If leave to defend is granted, the Judge may give such directions as he may deem fit.

(iv) If the defendant does not apply for leave to defend or if such application is made and is refused, the Judge may pass a decree forthwith for the plaintiff.

222. Judgment for part of claim. – If it appears that the defence set up by the defendant applied only to a part of the plaintiff's claim, or that any part of the claim is admitted, the plaintiff shall have judgment forthwith for such part of his claim as the defence does not apply to or as is admitted, subject to such terms, if any, as to suspending execution, taxation of costs, or otherwise, as the Judge may think fit; and the defendant may be allowed to defend as to the remaining claim of the plaintiff.

223. Where one defendant has good defence but another has not. – If it appears to the Judge that one defendant has good defence to the suit and ought to be permitted to defend the same, and that another defendant has not such defence and ought not to be permitted to defend, the former may be permitted to defend and the plaintiff shall be entitled to enter final judgment against the latter, and he may issue execution upon such judgment without prejudice to his right to proceed with his suit against the former.

TOP

224. Default in completing security or carrying out directions. - If the defendant does not complete his security (if any) or carry out such other directions as the Judge may have given within the time limited in the order, the plaintiff shall be at liberty to have the suit set down for hearing forth with before the Judge in Chambers, as if no order granting leave had been made.

225. Setting down of summary suits for hearing. - Summary suits in which leave to defend is granted shall, as far as possible, be set down for hearing, before the Judge appointed from time to time by the Chief Justice for that purpose, on the days fixed for the hearing thereof.

226. Defendant's default in filing appearance or Vakalatnama. - If the defendant does not enter an appearance in person or a vakalatnama within ten days from the service upon him of the Writ of Summons and the plaint, the plaintiff shall be at liberty to have the suit set down forth with for hearing before the Judge in Chambers.

227. When no decree applied for within six months. – If the plaintiff does not apply for a decree within six months after the filing of the plaint, the suit shall be set down for dismissal on the board of the Judge in Chambers. The Prothonotary and Senior Master shall notify on his notice board the date on which the suit is to be so set down and shall do so at least eight days before such date. If the plaintiff is appearing in person, the Prothonotary and Senior Master shall give notice of the date to the plaintiff by sending a letter to him by post under certificate of posting.

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TOP

CHAPTER XV

COMMERCIAL CAUSES

228. What are commercial causes? – Commercial causes include causes arising out of the ordinary transactions of merchants, bankers and traders whether of a simple or complicated nature and amongst others, causes relating to the construction of mercantile documents, export or import of merchandise, affreinghtment, carriage of goods by land, insurance, banking and mercantile agency and mercantile usages. Suits relating to infringement of trademarks, patents and designs and passing of actions shall be treated as commercial causes.

Suits relating to purchases and sales between merchants or traders on the one hand and manufactures on the other hand in respect of goods which are normally purchased and sold by the manufactures in the ordinary course of their business as manufactures shall also be treated as commercial causes.

229. Lodging of plaints. - All plaints intended to be treated as commercial causes shall be lodged in the ordinary way as provided in Chapter IV and the Writ of Summons in Form No. 9 shall be served on the defendant.

230. Transfer to List of Commercial Causes. - When the suit appears on the board of the Judge in Chambers for directions, any party may apply to the Judge for an order that the suit be transferred to the list of Commercial Causes. On the hearing of such application, the Judge may transfer the suit to the list of Commercial Causes and may given such further directions as he may deem necessary.

231. Transfer of summary suits to Commercial List. – At the hearing of a Summons for Judgment in a Summary suit, the Judge may, if he grants leave to the defendant to defend, transfer the suit to the list of Commercial Causes.

232. List of Commercial Causes. - A separate list shall be maintained of suits which have been transferred to the list of Commercial Causes.

233. Interlocutory orders with a view to have speedy determination of the suit.- When making the order for transfer, the Judge may make such order as he thinks fit for the speedy determination of the suit, the avoidance of multiplicity of interlocutory proceedings and the

TOP

avoidance of expense and delay which might arise from the issue of commissions to take evidence or otherwise. More particularly he may pass orders for any of the following matter:-

(a) dispensing with further pleadings, or for trial on the notes taken by him of the questions raised before him by the parties or on any points agreed upon between them and approved by him or on mutual admissions or agreed statements of fact;

(b) the admission of any document or fact and payment by the party refusing the costs of proving any such document or fact;

(c) evidence of any fact to be proved by the affidavit of a witness or by production of documents or entries in books or by copies of documents or entries or otherwise on such conditions as he may think reasonable;

(d) affidavits of documents and orders for costs of non-disclosure of any material document in such affidavit;

(e) interrogatories or particulars;

(f) mode and time of trial including the decision of preliminary points of law or fact.

234. Rules 158 and 159 to apply to suits to be transferred to commercial list. The provisions of rule 158 and 159 shall apply to suits proposed to be transferred to the list of Commercial Causes.

235. Rules 90 and 160 to apply to suits transferred to commercial list. – The provisions of Rules 90 and 160 shall apply to suits which have been transferred to the list of Commercial Causes.

236. Decision of Judge may by consent be final. - The parties may, if they so desire, agree in writing to be signed by them or their Advocates on record that the judgment or decision of the Judge in any suit shall be final.

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TOP

CHAPTER XVI
ADMINISTRATION SUITS

237. Chamber summons to classify interest of parties and to nominate advocates. – In all administration suits where there are more defendants than one, the plaintiff shall, simultaneously with the service of the Writ of Summons upon the defendants, apply by chamber Summons addressed to all the defendants, for directions to classify the interest of the parties to the suit. The parties shall state briefly on affidavit the nature of their respective interests in the suit and in the property sought to be administered. The Judge may thereupon direct that the parties constituting each or any class be represented in the suit by the same Advocate and may direct what parities may attend all or any part of the proceedings in the suit.

Where the parties constituting any class cannot agree upon the Advocate to represent them, the Judge shall nominate such Advocate for the purpose as he thinks fit. If any one of the parties constituting such class insists upon being represented by a different Advocate, such party shall, unless otherwise ordered, personally pay the costs of his own Advocate of and relating to all proceedings in the suit with respect to which such nomination shall have been made and all such further costs as shall be occasioned to any of the parties by his being represented by a different Advocate from the Advocated so nominated.

Parties shall be at liberty to apply for similar directions at any later stage of the suit.

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TOP

CHAPTER XVII

ORIGINATING SUMMONS

238. Who may apply for the issue of originating summons and in respect of what matters. - The executors or administrators of a deceased person or any of them and the trustees under any deed or instrument or any of them, and any person claiming to be interested in the relief sought as creditor, devisee, legatee, heir or legal representative, or as beneficiary under the trusts of any deed or instrument, or as claiming by assignment or otherwise under any such creditor or other person as aforesaid, may apply for the issue of an Originating Summons returnable before the Judge in Chambers for such relief of the nature or kind following as may by summons be specified and circumstances of the case may require (that is to say), the determination, without an administration of the estate or trust, of any of the following questions or matters. :-

(a) any question affecting the rights or interest of the person claiming to be creditor, devisee, legatee, heir or legal representative or beneficiary ;

(b) the ascertainment of any class of creditors, devisees, legatees, heirs, legal representatives, beneficiaries or others;

(c) the furnishing of any particular accounts by the executors, administrators or trustees and the vouching (when necessary) of such accounts;

(d) the payment into Court of any moneys in the hands of the executors, administrators or trustees;

(e) directing the executors, administrators or trustees to do or abstain from doing any particular act in their character as such executors, administrators or trustees;

(f) the approval of any sale, purchase, compromise or other transaction;

(g) the determination of any question arising in the administration of the estate or trust.

239. Order for administration of estate or of the trust. - Any of the persons named in the last preceding rule may, in like manner, apply for and obtain an order for-

(a) the administration of the estate of the deceased;

(b) the administration of the truth.

TOP

240. Persons to be served with the summons. - The persons to be served with the summons under the last two preceding rule shall be the following (that is to say) –

A. where the summons is issued at the instance of an executor or administrator or trustee:-

(a) for the determination of any question under sub-section (a) (e) (f) or (g) of rule 238, the persons whose rights or interests are sought to be affected;

(b) for the determination of any question under sub-section (b) of rule 238, all persons claiming to be members of the class;

(c) for the determination of any question under sub-section (c) of rule 238, all persons interested in taking such accounts;

(d) for the determination of any question under sub-section (d) of rule 238, all persons interested in such money;

(e) for relief under sub-section (a) of rule 239, the heirs, legal representatives, residuary devisees and residuary legatees;

(f) for relief under sub-section (b) of rule 239, the beneficiaries;

(g) if there be more than one executor or administrator or trustee and they do not all concur in having the summons issued, those who do not concur.

B. Where the summons is issued at the instance of any person other than the executors, administrators or trustees, the said executors, administrators or trustees.

241. Vendor or purchaser may apply for the issue of originating summons. – A vendor or purchaser of immovable property or their representatives respectively may, at any time or times and from time to time, apply for the issue of an Originating Summons returnable before the Judge in Chambers for the determination of any questions which may arise in respect of any requisitions or objections or any claim for compensation, or any other question arising out of or connected with the contract, not being a question affecting the existence or validity of the contract.

242. Persons to be served with such summons. – The summons under the last preceding rule shall be served upon such persons as under the existing practice would be the proper

TOP

defendants to a suit for the specific performance of the contract out of which the question to be settled arises.

243. Mortgagee or mortgagor may apply for issue of originating summons. – Any mortgagee, whether legal or equitable, or any mortgagor or any person entitled to or having property subject to a legal or equitable charge, or any person having the right to foreclose or redeem any mortgage, whether legal or equitable, may apply for the issue of an Originating Summons, returnable before the Judge in Chambers, for such relief of the nature or kind following as may by the summons be specified and as the circumstances of the case may require, (that is to say) sale, foreclosure, delivery of possession by the mortgagor, redemption, reconveyance and delivery of possession by the mortgagee.

244. A partner may apply for issue of originating summons.- Any partner in a firm or his legal representatives may apply for the issue of an Originating Summons returnable before the Judge in Chambers against his partners or former partners or their legal representatives (if any) for the purpose of having the partnership dissolved (if it be still subsisting) and for the purpose of taking the accounts of and winding up such partnership and for the determination of any question arising in such partnership, whether to be dissolved or wound up or not.

245. Person interested under deed etc. may apply for issue of originating summons.- Any person claiming to be interested under a deed, will or other written instrument, may apply for the issue of an Originating Summons returnable before the Judge in Chambers for the determination of any question of construction arising under the instrument and for a declaration of the rights of the person interested.

246. Court not bound to determine question of construction.- The Court or the Judge in chambers shall not be bound to determine any such question of construction if in its or his opinion it ought not to be determined on Originating summons.

247. Upon what persons originating summons under rules 243 and 245 to be served. – The summons under rules 243 and 245 shall be served upon the persons who would be proper defendants under the existing practice if the same relief were sought in a suit.

TOP

248. Service on other persons by direction. - The Judge may, in all cases, direct that such other persons to be served with an Originating Summons as he may think fit.

249. Plaint to be filed. – An Originating summons shall be in form No. 23 and shall specify the relief sought and shall be signed by the Prothonotary and Senior Master before being issued. The person entitled to apply shall present with it to the Prothonotary and Senior Master a plaint without a prayer setting forth concisely the facts upon which the relief sought by the summons is founded The plaint shall specify at the end but not in the form of a prayer the relief which is sought by the summons. No documents shall be annexed to the plaint, unless greater brevity or clearness would be gained by reference to annexed documents as opposed to setting out in the plaint itself the contents of documents which are not annexed thereto.

250. Plaint to be numbered with letters O.S. – The plaint when accepted shall be filed and numbered as an ordinary suit and entered in the Register of Suits, but after the serial number the letter "O.S." shall be placed to distinguish it from plaints filed in ordinary suits.

251. Service of originating summons. - The Originating Summons together with a copy of the plaint shall be served by the Advocate on record at whose instance the summons is issued and the summons after service shall be field in the proceedings.

252. Returnable date of originating summons. - Originating Summons shall, in ordinary cases, be made returnable fifteen clear days after service, but the Prothonotary and Senior Master may fix such longer period as to him may seem proper.

253. No obligation to file written statement or affidavit in reply. – A Written Statement or affidavit may be made in answer to the plaint but there shall be no obligation to make the same unless the Court otherwise directs.

254. When originating summons may be supported by evidence. – On the hearing of the Originating Summons if the parties thereto do not agree as to the correctness of the facts set forth in the plaint, the Judge may order the summons to be supported by such evidence as he may think necessary and may give such directions as he may think just for the trial of any questions arising thereout. The Judge may direct such amendment to be made in the plaint

TOP

and summons as may seem to him to be necessary to make them accord with the existing state of facts, so as properly to raise the questions in issue between the parties.

255. What may be done on hearing originating summons. – The Judge hearing an Originating Summons may, if he thinks fit, adjourn the summons into Court. If the Judge considers that the matters in respect of which relief is sought cannot conveniently and properly be disposed of on an Originating Summons, he may refuse to pass any order on the summons, may dismiss the same and refer the parties to a suit in the ordinary course, and in such case may make such order as to costs already incurred as may seem to him to be just.

256. When cost of originating summons may be allowed as in a defended suit. – Where an originating summons is adjourned into Court, the Judge may, if he thinks the question to be determined is of sufficient importance, order the costs to be taxed on the same scale as in a defended suit. In all other cases, the cost of one Advocate will be allowed to the plaintiff, and to each person or set of persons, having divergent interests.

257. When costs of ordinary suit may be allowed as in an originating summons. - Where at the hearing of a suit filed in the ordinary way it shall appear to the Judge that the party instituting the suit might have obtained the desired relief by Originating Summons, he may direct that such party shall only be allowed on taxation such costs as would have been allowed in an Originating Summons.

258. Order made on originating summons to be drawn up as decree of Court. If the Judge is of opinion that the matter is fit to be dealt with on an Originating Summons, he may pronounce such Judgment as the nature of the case shall require, and any order made by him shall be drawn up as a decree of the Court, provided that if the Judge dismisses the summons under rule 255, it shall be sufficient for him to make an order to that effect which shall be filed in the proceedings.

259. Directions as to carriage or execution of decree. – The Judge may give any directions touching the carriage or execution of such decree or the service thereof upon persons not parties, as he may think fit.

TOP

260. Subsequent summons about same estate. – When an Originating Summons has been issued under rule 238 or rule 239 every subsequent summons relating to the same estate or trust shall, so far as possible, be heard by the Judge who heard the Original Summons.

261. Order II, Rule 2 of the Code of Civil Procedure not to apply to plaints filed in support of originating summons. – Nothing in Order II, Rule 2, of the Code of Civil Procedure shall apply to plaints filed to support an Originating Summons or to any proceedings thereunder.

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TOP

CHAPTER XVIII

COMPUTATION OF TIME AND POWER TO ENLARGE OR ABRIDGE TIME

262. Computation of time. – In all cases in which any particular number of days, not expressed to be clear days in prescribed by the rules or practice of the Court, and no coming under the Statute of Limitations, 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 Sunday or other day on which the offices are closed, in which case the time shall be reckoned exclusively of that day also, and any succeeding day or days on which the offices continue to be closed: Provided that Written Statement due in vacations may be filed on the day the Court re-opens.

263. "Month" means calendar month.- Where by these rule, or in any decree or order time for doing any act or taking any proceedings is limited by months, and where the word "month" occurs in any document which is part of any legal procedure under these rules, such time shall be computed by calendar months, unless otherwise expressed.

264. The time for giving security for costs when not to be reckoned. – The day on which an order for security for costs is served, and the time thence forward until and including the day on which such security is given, shall not be reckoned in the computation of time allowed to plead, answer interrogatories, or take any other proceedings in the suit or matter.

265. Power of Court or Judge to enlarge or abridge time- The Court or the Judge in Chambers shall have power to enlarge or abridge the time appointed by these rules or fixed by any order for doing any act or taking any proceedings, upon such terms (if any) as the justice of the case may require, and any such enlargement may be ordered although the application for the same is not made until after the expiration of the time appointed or allowed.

266. Enlargement of time by consent. –The time of delivering, amending or filing any leading or other document may be enlarged by consent of the parties in writing, without application to the Court or the Judge in Chambers.

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TOP

CHAPTER XIX
SEARCH AND CERTIFIED COPIES

267. Search and certified copies of documents to a party to suit or matter. – The Prothonotary and Senior Master shall, on the application of any party to a suit or matter, allowed search or grant certified copies of all papers and proceedings in the suit or matter, on payment of the prescribed fees and charges. When the party applies for the certified copy of a part of a document on record, the Prothonotary and Senior Master may, in his discretion, grant such copy.

268. Search and certified copies of documents to a person not a party to suit or matter. – The Prothonotary and Senior Master may, on the application of a person not a party to a suit or matter, on sufficient cause being shown, allow search or grant certified copies of such papers and proceedings in the suit or matter as the Prothonotary and Senior Master may think fit, on payment of the prescribed fees and charges. When such person applies for a certified copy of a part of a document on record, the Prothonotary and Senior Master may, in his discretion, grant such copy.

[1][**269.Depost for certified copies.-** [2][The Court Fee Stamp of Rs.5 or as may be prescribed by the State Government, from time to time, hereinafter, under the Bombay Court Fees Act shall be affixed on the application for issue of Certified Copy.] Every application for a certified copy of any Judgment, Decree or Order and Minutes of Order shall be accompanied by a deposit of Rs. 20, Rs.15 and Rs.10 respectively. Any further charges that may be found to be due shall be paid before the copy is furnished. If the amount deposited is found to be in excess of the actual charges, the excess shall be returned when the copy is furnished:

Provided that, no such deposit shall be necessary when the application is made by or on behalf of the State of Maharashtra or the Union of India but on the undertaking of the Advocate concerned that charges will be paid irrespective of whether the certified copies are eventually collected or not.]

270. Charges for certified copies. – (1) The following shall be the rates for obtaining the certified copies of documents:-

1 . Rule 269 was substituted by G.N.No.G/Amend/2419,dated 27th March 1991, pub. in M.G.G, Pt. IV-Ka, p. 170-173.
2 . These words were inserted by G. N. No. G/Amend/14865, dated October 19, 2007.

TOP

(a) For copying and comparing documents, 40 paise per folio of 100 words, or fraction thereof;

(b) For copying and comparing documents in tabular form, twice the rate mentioned in item (a);

(c) For comparing private copies of documents, produced for certification as true copies, 20 paise per folio of 100 words or fraction thereof;

(d) For copying map or plan such fees not exceeding Rs. 25 and not less than Rs. 2 as the Prothonotary and Senior Master may determine.

(e) For copying and comparing copies prepared on Xerox Machine Rs. 1.50 Paise per page;

(f) For copying and comparing urgent copies prepared on Xerox Machine Rs. 2.25 paise per page.

(2) When Advocate or a party applies for more than one certified copies of any document, he may also state in the application itself, whether he requires carbon copies of the said document. In such cases, the Office shall issue to him a maximum of five carbon copies (in addition to the original certified copy at full rates) and shall charge for each such carbon copy one fourth of the fee prescribed for a single certified copy of the document in question with a minimum of 15 paise.

271. Application to state whether copy is required for private use or otherwise. – Every application for a certified copy shall state whether the copy is required for the private use of the person applying for it or otherwise. When the certified copy is required for a purpose other than private use, the requisite Court fee under Articles 24, 25 and 27 of Schedule II to the Bombay Court Fees Act, 1959, shall be paid in addition to the fees prescribed by rule 270.

272. Applications for copies liable to stamp-duty. – All applications for certified copies liable to stamp-duty under Article 26 of Schedule I to the Bombay Stamp Act, 1958, shall be accompanied by the stamp-paper of the appropriate denomination.

[1]**[272-A. Private copies may be certified as true copies. –** Copies of the Judgment or any document on record in any civil proceeding in this court may, on the orders of the

1 . Rule 272A was inserted by G.N.No.G/Amend/2419,dated 27th March 1991, pub. In M.G.G, Pt. IV-Ka, p. 170-173.

TOP

Prothonotary and Senior Master, be certified as true copies, upon an application made in that behalf, provided that the copies sought to be certified are neatly typed on good paper. In such case, only comparing fees shall be levied according to the scale of fees prescribed. In no case xerox copies shall be so certified. **]**

273. The above rules to apply to certain other offices. – The rules contained in this chapter shall, with any necessary modifications, apply to applications for search of proceedings and for certified copies of documents in the offices of the Commissioner for Taking Accounts, the Court Receiver, the Taxing Master, the Sheriff of Bombay and the Accounts Officer.

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TOP

CHAPTER XX

PROCEEDINGS AT THE HEARING OF SUITS AND UPTO AND INCLUSIVE OF DECREES

274. Evidence how taken – Upon the hearing of any suit, the evidence of the witnesses shall be taken down in writing by or in the presence and at the dictation of the Judge or one of the Judges, not ordinarily in the form of question and answer but in that of a narrative, and the notes so taken shall be sufficient for all purposes and shall form part of the record.

275. Endorsement under Order XIII, Rule 4 of the Code of Civil Procedure. – The endorsement prescribed by Order XIII, rule 4 of the Code of Civil Procedure shall be signed by the officer attending in Court instead of by the Judge.

276. Extracts from or entries in document admitted in evidence to be initialed and marked. – Where extracts from or entries in any document are admitted in evidence the extent of such extracts or entries shall be indicated by the initials of the officer receiving and marking such extracts or entries and such officer shall, before so receiving or making any such extracts or entries, require the person tendering the same in evidence or his Advocate on record or the clerk of such Advocate to indicate by initials or other sufficient mode the extent of the extracts of entries so tendered.

277. Translation of entry to be marked instead of a copy thereof. - When an entry in any book which is not in the English language is put in evidence under Order XIII, rule 4 of the Code of Civil Procedure, the translation of such entry shall be marked and recorded in lieu of a copy thereof.

278. Proceedings in another suit how put in as evidence. – When any proceedings in a suit filed in the Court are necessary to be put in as evidence in another suit in the Court, they shall not be removed from the file of the former suit unless true copies thereof are substituted in the file of the former suit, unless the Judge shall otherwise direct.

279. Exemption to Muslims from appearance on certain days. – All cases in which Muslims are concerned, either as plaintiffs or as defendants or as Advocates, shall, on due

TOP

notice in that behalf being given to the Prothonotary and Senior Master, or in the case of part heard suits on applications to the Presiding Judge, be allowed to stand over and not be called on for hearing on the day on which any of the Muslim holiday is actually observed if it does not fall on the day notified. Muslim witnesses shall be exempted from attending on the said day.

280. Exhibits to be official translated. – Subject to Rule 630, no document, not in the English language, shall be read or received in evidence without an official translation thereof, except by leave of the Court.

281. Personal liability of advocate on record to pay costs. - Whereupon the trial of any suit or matter it appears that the same cannot conveniently proceed by reason of the Advocate on record for any party having neglected to attend personally, or by some proper person on his behalf, or having omitted to deliver any paper necessary for the use of the Court or the Judge in chambers and which according to the practice ought to have been delivered, such Advocate shall personally pay to all or any of the parties such costs as the Court or the Judge in Chambers shall think fit to award.

282. Order for postponement. – When the hearing of any suit is ordered by the Court to be postponed, the officer attending in Court shall make a note of the order in the minute book. An entry of the date fixed shall then be made in the Register of suits, and the summons, if not already served, shall be amended accordingly. No formal order shall be drawn up.

283. Return of plaint. – (i) The Court or the Judge in Chambers may at any stage of the suit order the plaint to be returned to the plaintiff to be presented to the Court in which the suit should have been instituted.

(ii) When an order for return of the plaint is made, the Prothonotary and Senior Master or any officer subordinate to him shall endorse on the plaint (a) the date of its presentation, (b) the date of the order for its return, (c) the date on which the plaintiff furnishes a copy of the plaint and the date on which it is certified as a true copy by the office of the Prothonotary and Senior Master, as provided in sub-rule(iii) of this rule, and (d) the date of the return of the plaint.

TOP

(iii) The plaint shall be returned only after the plaintiff has furnished, for the record of the Court, a copy of the plaint and the said copy has been certified as a true copy by the office of the Prothonotary and Senior Master.

284. No decree unless suit on board. – No decree in a suit, save as provided in rule 788, shall be passed, unless the suit appears on the daily trial board.

285. Payment of costs to be condition precedent in the order for withdrawal of suit with liberty to file fresh suit. – When a suit is allowed to be withdrawn with liberty to bring a fresh suit in respect of the same subject matter, unless the Court shall otherwise direct, the order shall be drawn up so as to make the payment of the costs of the suit is a condition precedent to the plaintiff bringing a fresh suit.

286. Dismissal of suit on application of plaintiff, to be a bar to fresh suit. – Where on the application of the plaintiff the Court dismisses the suit either for want of prosecution or for any other reason, the plaintiff shall be precluded from bringing a fresh suit in respect of the same cause of action.

287. Dismissal under Order XXV, Rule 2, Civil Procedure Code to be a bar to fresh suit. – When a suit is dismissed under Order XXV, Rule 2 of the Code of Civil Procedure, the plaintiff shall be precluded from bringing a fresh suit in respect of the same cause of action, except with the permission of the Court, which may be granted on such terms as to payment of the costs of the former suit or otherwise as it thinks fit.

288. Disposal of suit without report to be notified to Commissioner. – Whenever a suit which is referred to the Commissioner is finally disposed of before the receipt of his report or is referred to arbitration by the order of the Court, the Prothonotary and Senior Master shall forthwith notify the same to the Commissioner, who shall thereupon remove the suit from his list.

289. Decree for maintenance. – In a decree for maintenance payable out of property charged with payment of the allowance, the Court may appoint, subject to such condition (if any) as it shall think fit, a receiver with directions in case of default in payment of the maintenance,

TOP

to take possession of the property and sell the same and out of the sale proceeds to pay the allowance for maintenance.

290. When Judge may order application for administration, etc. to stand over. – Upon an application for administration of the estate of a deceased person or for execution of a trust, by a creditor, by a beneficiary under a will, deed or trust, or by an heir on an intestacy, where no accounts or insufficient accounts have been rendered, the Court or the Judge in Chambers may in addition to the powers already existing –

(a) order that the application shall stand over for a certain time, and that the executors, administrators or trustees in the meantime shall render to the plaintiff or applicant a proper statement of their accounts, with an intimation that if this is not done, they may be ordered to pay the costs of the proceedings; and

(b) When necessary to prevent proceedings by other creditors or by persons beneficially interested make the usual order for administration with a proviso that no proceedings are to be taken under such judgment or order without the leave of a Judge.

291. Costs of inquiry as regards right to legacy etc. – The costs of an inquiry to ascertain the person entitled to any legacy, money or share of immovable and movable property, or otherwise incurred in relation thereto shall be paid out of such legacy, money or share unless the Court or the Judge in Chambers shall otherwise direct.

292. Distribution not to be delayed by difficulties as to some shares. – Where some of the persons entitled to a distributive share of property are ascertained and difficulty or delay has occurred or is likely to occur in ascertaining the persons entitled to the other shares the Court or a Judge may order or allow immediate payment or transfer of their shares to the persons ascertained and in all such cases such order may be made for ascertaining the person entitled to the other shares as the Court or the Judge shall think fit.

293. Sale and sub-division of securities implied in order for payment of fund. – Every decree or order for the payment of money out of a fund which is subject to the order of the

TOP

Court shall, for the purpose of such payment, be deemed to authorize the sale and sub-division on the securities belonging to the fund or of a sufficient portion thereof.

294. Post of ante-dating of decrees. – By leave of the Judge a decree may be ante-dated or post-dated.

295. Liberty to apply implied in decree or order that is not final. – In every decree and order that is not final, liberty to apply shall be implied.

[1]**[296. Judgment how passed. -** (i) The judgment shall be pronounced in open Court and a minute thereof made by the Officer attending in Court;

(ii) A judgment delivered by the Court, when initialled by the Judge pronouncing it, either on the transcript of the Judgment or on the approval sheet attached to it, shall be final Judgment of which copies could be supplied to the parties or their Advocates, unless the Judge delivering it desires that he want to have a fair copy of the Judgment for approval. In the latter event, the Judgment shall be considered to be final when the fair copy is approved and initialled by the Judge;

(iii) Where Judgment has been reserved in a Suit, Appeal or Matter heard by a Division Bench or a Special Bench, consisting of two or more Judges, and all of them are not available for sitting together at one place, such Judgment may be pronounced by any of the Judges, who heard the Suit, Appeal or Matter after the transcript or the transcripts of the Judgment is or have been initialed by all the Judges who heard the Suit, Appeal or Matter.]

297. Issuing and filing of minutes of decrees of orders passed in Court. – The office of the Prothonotary and Senior Master shall within three days of the passing of every decree or order in Court, issue minutes of such decree or order. The minutes shall be kept in the Board Department for the inspection of the parties for a period of three days from the date of the issue of the minutes. Any party desiring to inspect the minutes shall be entitled to do so on making an oral application to the person in change of the Board Department. Any party who disputes the correctness of the minute as recorded or objects to the minutes on any other ground may, within four days after the expiry of the period of inspection, apply on the

1 . Rule 296 was substituted by G.N.No.G/Amend/4504,dated 22nd June 1992, pub. in M.G.G, Pt. IV-Ka, p. 386.

TOP

Prothonotary and Senior Master to place the matter before the Court for speaking to the minutes. If no such application is made, the minutes shall be deemed to have been accepted and shall be filed in the proceedings. If such application is made, any variation made by the Court shall be incorporated in the minutes which shall than be field.

298. Contents of decree. – A decree shall contain the number of the suit, the names and description of the parties and particulars of the claim and shall state whether both sides appeared and how, and whether evidence was taken and shall specify clearly the relief granted or other determination of the suit but no issues or findings thereon shall be inserted unless by special directions of the Judge, nor shall there be any recitals other than such short ones as the Prothonotary and Senior Master thinks necessary. The decree shall also state the amount of costs incurred in the suit and by whom and out of what property and in what proportions costs are to be paid.

Decrees and Orders passed in Court

299. Interlocutory orders passed in Court not to be drawn up. - It shall not necessary to draw up Orders made in interlocutory proceedings unless the Court or the Prothonotary and Senior Master otherwise directs.

300. Drawing up decrees and orders passed in Court. – [1][(1) A Decree passed in Court, an Order made in Court other than an Order on an interlocutory application, and an Order made in Court on an interlocutory application which has been directed under the last preceding rule, shall be drawn up by the party initiating the proceeding, unless the Court otherwise directs. Such party shall lodge the draft of the Decree or Order, for settlement in the office of the Prothonotary and Senior Master within four weeks from the date of the original Judgment or Order being available and shall apply to fix a time to settle the draft. Such party shall forthwith forward copies of the draft to all parties who have appeared at the hearing of the suit or matter. The office of the Prothonotary and Senior Master shall check the draft and make such alterations in the draft as it may consider necessary and warranted by the directions of the Court. After the draft is checked, the office of the Prothonotary and Senior Master shall fix a date for setting the draft but ordinarily not earlier than ten days after the

1. Rule 300(1) was substituted by G.N.No.G/Amend/2419, dated 27th March 1991, pub. in M.G.G.Pt. IV Ka, p. 17-173.

TOP

date of the lodging of the draft but within four weeks from the date of the lodging. A notice shall be put up on the notice board of the Decree Department intimating to the parties the date fixed for settlement of the draft. No other notice shall be given of the date so fixed, except that when a party has appeared in person, the party lodging the draft shall send notice of the meeting to him. Any party desiring to inspect the draft as checked by the office shall be entitled to do so on making an oral application to the person in charge of the Draft section of the Decree Department. The draft shall be finally settled by the Prothonotary and Senior Master or by any one of his assistants. If any part fails to attend the meeting for settlement of the Draft, the concerned Officer shall proceed to settle the Draft not withstanding such absence.]

(2) If the party whose duty it is to draw up the decree or order does not lodge the draft in the office of the Prothonotary and Senior Master within ten days from the date of the decree or order, it shall be open to any other party to the proceeding to draw up and lodge such decree or order. Then the procedure prescribed in sub-rule (1) shall be followed.

(3) In case the party initiating the proceeding is a party in person, the decree or order shall, at his request, be drawn up by the office of the Prothonotary and Senior Master. The Office shall give notice of the draft being ready to the party in person and shall put up a notice on the notice board of the Decree Department intimating the date fixed for the settlement of the draft. Any party desiring to inspect the draft shall be entitled to do so on making an oral application to the person in charge of the Decree Department. The draft shall be finally settled by the Prothonotary and Senior Master or by any one of his assistants.

(4)Any party dissatisfied with the draft as settled by the office of the Prothonotary and Senior Master may, within two days from the date of settlement of the draft, apply to the Prothonotary and Senior Master to place the matter before the Court for settlement of the draft. If no such application is made, the draft is settled by the office of the Prothonotary and Senior Master shall be deemed to have been accepted. If such application is made, any variation made by the Court shall be incorporated in the draft.

(5) Decrees and orders passed in Court shall be signed by the Prothonotary and Senior Master or by one of his assistants and sealed with the seal of the Court.

TOP

301. Drawing up decrees in urgent cases – In cases where it is necessary that the decree or order should be urgently drawn up any party may draw up the decree or order an lodge the draft in the office of the Prothonotary and Senior Master and apply to fix an urgent meeting to settle the draft of the decree or order. Such party shall forward copies of the draft to all other parties who have appeared at the hearing of the suit or matter and shall give intimation to them of the time fixed by the office of the Prothonotary and Senior Master for settling the draft of the decree or order.

302. Prothonotary and Senior Master may proceed ex-parte. – If any party fails to attend before the Prothonotary and Senior Master at the time of settling the draft of a decree or order or fails to produce his briefs or any documents called for by the Prothonotary and Senior Master, the Prothonotary and Senior Master may proceed to settle such draft in his absence or without the production of the briefs or documents aforesaid, or may require the matter to be mentioned to the Court.

303. Draft decree or order may be submitted to Judge. – In cases of doubt or difficulty, the Prothonotary and Senior Master may submit the draft of the decree or order to the Judge who passed the decree or order.

304. Errors, how rectified after decree or order is sealed. – After a decree or order has been sealed, any application to rectify an inaccuracy or clerical or arithmetical error shall be made to the Prothonotary and Senior Master and he may, in his discretion, after notice to the parties when he deems it necessary, rectify such inaccuracy or error. The Prothonotary and Senior Master may, if he thinks fit, place the matter before the Judge who passed the decree or order or in the event of his absence on leave or retirement before any other Judge and the Judge may, in his discretion, after notice to the parties when he deems it necessary, amend the decree or order so as to bring it in conformity with the judgment or rectify such inaccuracy or error.

305. Applications for return of exhibits must be made within ten days. – Applications by parties or their Advocates for the return of exhibits put in at the hearing shall be made within ten days after the time for appealing against the decree in the suit has expired, or in case an appeal is filed within ten days after the disposal of the appeal.

TOP

306. Return of exhibits. – Documents, not directed by the Judge who has heard a suit or proceeding to be retained, will be returned by the Prothonotary and Senior Master on the expiration of the time for appealing (if no memorandum of appeal has been filed) unless cause to the country appears or they are of the nature specified in the fourth proviso to Order XIII, rule 9 of the Code of Civil Procedure.

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TOP

CHAPTER XXI

ARREST AND ATTACHMENT BEFORE JUDGMENT

307. Arrest and attachment before judgment. – Application for arrest or attachment before judgment under Order XXXVIII of the Code of Civil Procedure shall be made by Notice of Motion supported by affidavit, stating distinctly the ground on which the warrant is sought and the reason for believing such ground to exist.

A party applying under this rule shall give an undertaking in writing, or though his Advocate to pay such sum by way of damages as the Court may award as compensation in the event of a party affected sustaining prejudice by such order.

308. Conditional attachment duration of . - When a conditional attachment before judgment is granted under Order XXXVIII, rule 5 of the Code of Civil Procedure, it shall only continue until the day named in the warrant or until the further order of the Court. (Form No. 43).

309. Rule 332 and 333 to apply. – Rule 332 and 333 shall respectively apply, with any necessary modifications, to warrants of arrest and attachment before judgment.

310. Procedure on the surety rendering the principal or principal surrendering himself. – If the surety be desirous of rendering the principal or if the principal be desirous of surrendering himself, such surety or principal shall give notice to the Sheriff to attend before the Judge in Chambers at the time of the render or surrender, in order that the Sheriff or his Deputy may take immediate charge of the principal.

311. When principal may be rendered. – Sureties shall be at liberty to render the principal at any time during the last day for rendering provided such render is made before the prison doors are closed for the night.

312. Stay of proceedings. – A party shall not be at liberty to proceed on the bond, pending a rule to bring in the body of the principal.

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TOP

CHAPTER XXII

EXECUTION OF DECREES AND ORDERS

313. Form of application for execution:- The application for execution, whether the provisions of Order XXI, Rule 22, of the Code of Civil Procedure apply or not, shall be in Form No.45 and shall be on a sheet of durable paper, foolscap size and shall, in addition to the particulars mentioned in Order XXI, rule 11(2) contain the following :-

(1) (**Under column "F**") – The date and nature of any writ issued before or after judgment.

(2) (**by way of schedule**) – The description of the property and the interest of the judgment-debtor therein as required by Order XXI, rule 13 of the Code of Civil Procedure.

(3) When land sought to be attached is not registered in the Collector's office, an express statement to that effect shall be added after the description of the said property.

314. Certified copy of decree or order or Minutes to accompany application for execution: - In all cases the application for execution shall be accompanied by a duly certified copy of the decree or order, or by the Original, or by the Minutes of decree or order until the decree or order is drawn up.

Judge may allow execution before sealing of decree or order: - The Court or the Judge in Chambers may, however, for good cause, allow execution to issue before the sealing of the decree or order.

315. Application for execution to be made to Prothonotary and Senior Master:- All applications for the execution of decrees or orders, whether of the High Court or of any other Court (except as otherwise provided by these rules), shall be made by Advocates on record or by parties in person to the Prothonotary and Senior Master, and the transmission of decrees and the issue of all the necessary warrants and notices and all amendments thereof shall be made by him or by any one of his assistants.

TOP

316. Notice under Order XXI, Rule 22 of the Code of Civil Procedure :- When the provisions of Order XXI, Rule 22 of the Code of Civil Procedure apply, the Prothonotary and Senior Master shall issue notice on the application for execution in Form No. 49.

317. Returnable date of notice:- All notices under section 73 and 145 and Order XXI, Rules 2,16,22,34 and 37 of the Code of Civil Procedure shall be issued by the Prothonotary and Senior Master and be made returnable before the Judge in Chambers on a day to be therein mentioned, and shall be served if the party upon whom the service is to be made is residing or carrying on business –

(a) within Greater Bombay Four clear days.

(b) at any other place within the State of Maharashtra Eight clear days.

(c) at a place outside the State of Maharashtra Fourteen clear days.

(d) at a place outside India Two months.

before such date, unless the Judge shall otherwise order, (Forms Nos. 44, 46, 48, 49, 50, 51 and 72).

318. Prothonotary and Senior Master not to issue execution simultaneously against person and property:- The Prothonotary and Senior Master shall not issue execution at the same time against the person and property of the judgment-debtor, but a judgment-creditor desiring to proceed against both at once, shall apply to the Judge in Chambers on affidavit, and in case of such application being refused, he shall not be allowed to include the costs thereof in his costs as against the debtor without the order of the said Judge, but when execution of a warrant of the one kind has failed, the Prothonotary and Senior Master may, at the request of the judgment-creditor, forthwith issue a warrant of the other kind.

319. Application for transmission of decree or order for execution:- Applications under section 39 of the Code of Civil Procedure to transmit a decree or order to another Court for execution shall be made on affidavit clearly stating the particulars mentioned in clause (a) or (b) of that section and shall be accompanied by a certified copy of the decree or order, and the Prothonotary and Senior Master shall thereupon transmit such certified copy together with the other documents mentioned in Order XXI, Rule 6 of the Code of Civil Procedure to the said Court by registered post.

TOP

320. Transmission of decree or order when provisions of Order 21, Rule 22 apply:- When a copy of a decree or order of this court is to be transmitted to another Court for execution and the provisions of Order 21, Rule 22 of the Code of Civil Procedure apply, the notice under Order 21, Rule 22 shall be issued by this Court and order obtained thereon, provided that where the judgment debtor resides or carries on business in the place to which the decree or order is to be transmitted and the provisions of Order 21, Rule 22 apply, then the copy of the decree or order may be transmitted to such Court without the notice under Order 21, Rule 22 being issued by this Court.

321. Certificate of non-satisfaction when provisions of Order 21, Rule 22 apply:- When a copy of a decree or order of this Court is transmitted to another Court for execution and the provisions of Order XXI, Rule 22 of the Code of Civil Procedure apply and having been complied with, it shall be stated in the certificate of non- satisfaction that these provisions have been complied with.

322. Stay of execution on transmission: - When a decree or order is sent to another Court for execution, a stay of execution shall be entered in the proceeding in this Court, unless the Judge in Chambers shall on such terms as he thinks fit otherwise direct.

323. Transmission of decree on two or more districts simultaneously:- When a person against whom execution is sought has property in two or more districts, the Prothonotary and Senior Master may, on being satisfied of the necessity, cause a copy of the decree or order obtained against such person to be transmitted for execution of some or all of such districts contemporaneously. In the certificate of non-satisfaction to be sent therewith to the Court of each such district it shall be stated to what other Courts a copy of the decree or order has been sent for execution. At the same time a letter shall be sent to the Judge of one of such Courts requesting him to attach and sell the property in his district (hereinafter mentioned as district "**A**"), or a sufficient portion thereof, and certify the result to this Court, and with such letter shall be sent a copy of the letter sent to the Judge of each of the other Courts. A letter shall also be sent to the Judge of each of the other Courts, requesting him to attach the property in his district but not to sell the same until furnished by this Court with information as to the result of the sale of the property in district "**A**".

TOP

324. Procedure when insufficient amount realized in first district:- If the amount realized in district "A" shall not be sufficient to satisfy the decree or order, a certificate stating the result of the sale shall be sent to the Judge of another of such Courts with a letter requesting him to sell the property under attachment in his district (hereinafter mentioned as district "B"), or a sufficient portion thereof, and certify the result to this Court.

325. Procedure when insufficient amount realized in second or succeeding districts:- If the amount realized in execution in district "B" shall not be sufficient to satisfy the balance payable under the decree or order, the procedure indicated in the last preceding rule shall be followed and so on as to each of the other districts successively.

326. Procedure when sufficient amount realized in execution:- If the amount realized "in execution in district "A" or district "B" or any other district except the last, shall be sufficient to satisfy the decree or order, a certificate that such is the case shall be sent to the Court of each district in which property shall at the time be under attachment in execution of the decree or order.

327. Return of decree or order if provisions of Order 21, Rule 22 or Order 21, Rule 6 are not complied with:- When a copy of a decree or order of another Court is transmitted to this Court for execution after the lapse of two years from the date thereof or of the last order made against the party against whom execution as applied on any application for execution, or after the death of the judgment-debtor, and there is nothing to show that notice has been given under order XXI, rule 22 of the Code of Civil Procedure, the Prothonotary and Senior Master may return the copy of the decree or order to the Court from which it was received, with a request that it may be certified whether notices has been given under that rule. The Prothonotary and Senior Master shall also return the copy of the decree or order, if the requirements of order XXI, rule 6 of the Code shall not have been fully complied with.

328. Return of decree or order for non-prosecution:- When a copy of a decree or order of another Court is transmitted to this Court for execution and the judgment creditor does not take any steps in this Court for a period of one year after the receipt of the decree or order, the Prothonotary and Senior Master shall return the copy of the decree or order to the Court from which it was received.

TOP

329. Non-prosecution of application for execution:- When a party does not proceed with the application for execution for a period of twelve months from the date of the filing of application, the Prothonotary and Senior Master shall place the application before the Judge in Chambers for dismissal for want of prosecution. The Judge may pass such orders thereon as he may think fit.

330. Reference to Judge on refusal by Prothonotary and Senior Master:- When the Prothonotary and Senior Master shall refuse an application for execution, the matter shall, at the request of the applicant, be referred to the Judge in Chambers, and, in all such cases, the Prothonotary and Senior Master shall certify the grounds of his refusal, and they shall be brought to the notice of the Judge.

331. Application for receiver in execution of decree or order:- An application for the execution of a decree or order by the appointment of a receiver under order XL, Rule 1 of the Code of Civil Procedure to realize or otherwise deal with property under attachment shall be made to the Judge in Chambers, and such receiver shall, unless otherwise ordered, be subject to the rules of this Court applicable to persons appointed receivers of property which is the subject matter of a suit.

332. Costs of execution to be specified on warrant of arrest:- Every warrant for the arrest of any person in execution of decree or order shall, in addition to the amount due and payable under the decree or order for principal, interest and costs, specify a sum for the costs of execution, unless so directed by the Judge in Chambers or the Prothonotary and Senior Master (Form No.52).

333. Costs of execution to be specified on warrant of attachment:- Every warrant for attachment of property shall specify a sum for costs of execution unless so directed by the Judge in Chambers or the Prothonotary and Senior Master. (Forms Nos. 54, 55, 56, 57, 60 and 61)

334. When fresh application necessary:- When a warrant for sale is not got issued within a year from the date of the warrant of attachment, or when a warrant in execution of a decree or order has not been fully executed within a year from the date thereof, a fresh application shall

TOP

be made for such further execution as may be necessary, but at the cost of the party seeking execution unless the Prothonotary and Senior Master otherwise directs:

Provided that if no such fresh application is made, the Prothonotary and Senior Master may after giving notice to the judgment-creditor and after hearing his objections, if any, on the application of any party interested in the property subject to attachment make an order that the attachment has ceased and on such order being made, the attachment shall be deemed to have been raised.

335. Payment into Court when to be made:- Payment of money into Court in satisfaction of a decree or order shall be made to the Prothonotary and Senior Master, if warrants in execution have not been issued or if they have been issued but have not been lodged with the Sheriff, and the Prothonotary and Senior Master shall enter satisfaction *protanto* upon the decree or order, The Prothonotary and Senior Master shall then, at the request of the judgment-creditor, pay the money to him.

336. Payment out of Court to be notified:- Whenever money payable under a decree or order is paid out of Court to the decree-holder as provided by Order XXI, Rule 2 of the Code of Civil Procedure or to an Advocate on record out of Court on behalf of his client, the decree-holder or his Advocate on record, as the case may be, shall forthwith notify in writing such payment to the Prothonotary and Senior Master and request entry of satisfaction in whole or in part, as the case may be, on the said decree or order, stating whether the satisfaction was obtained with or without execution.

337. Procedure on realization by Sheriff:- When the Sheriff has certified to the Court that he has realized assets by sale or otherwise from the property of the judgment-debtor, the Prothonotary and Senior Master shall file the certificate, and shall, at the request of the judgment-creditor at whose instance the realization was made, certify what persons have within twelve months prior to the realization applied to the Court for execution of decrees for money against the same judgment-debtor or have been declared entitled to share in such assets together with the amount appearing to be payable under such decrees.

338. Notice to all person claiming to share to attend Judge in Chambers:- The Prothonotary and Senior Master shall also issue a notice calling upon all persons who claim

TOP

to share in such assets to attend before the Judge in Chambers on the day therein named in support of their claims. Such notice shall be served upon the persons named in the certificate and a copy thereof shall be posted up in a conspicuous place in the Court House.

339. Procedure on such notice: - Upon the day so named the Judge, upon proof of the due service of the said notice, will proceed to deal with such claims and make such orders as he deems fit.

340. On realization of monthly pay frequent certificates not to issue:- When any portion of the pay or salary of a judgment-debtor is paid monthly to the Sheriff in execution of a decree, it shall not be necessary for the Prothonotary and Senior Master to issue a certificate and notice on each realization, but at such periods only as he may think fit.

341. Procedure when judgment creditor neglects to apply for certificate:- Should the judgment-creditor, at whose instance the realization was made, neglect or refuse to apply for the certificate or to serve the notice hereinbefore mentioned any other person entitled to share in the assets shall be at liberty to apply for such certificate and serve such notice.

342. When such judgment-creditor alone entitled to payment:- If the Prothonotary and Senior Master shall certify that no person has, within twelve months prior to the realization, applied to the Court for execution of a decree for money against the judgment-debtor, the judgment-creditor may at once apply to the Prothonotary and Senior Master for an order directing the Sheriff to pay to him the amount realized or so much thereof as may be sufficient to satisfy his decree. (Form No. 73)

343. Acts under Order XXI Rule 34(5) and 80 of the Code of Civil Procedure to be done by the Prothonotary and Senior Master:- The acts directed to be done by the Court under Order XXI, rule 34(5) and 80 of the Code of Civil Procedure shall, unless otherwise ordered by the Court, be done by the Prothonotary and Senior Master shall be in the following form:-

"A B by the hand of C.D. Prothonotary and Senior Master, High Court, Bombay, pursuant to the order of the Honourable Mr. Justice …….dated the…….day of ……..19……made in suit No……of 19……"

TOP

344. Procedure in case of doubt or difficulty:- In case of doubt or difficulty under this Chapter, the Prothonotary and Senior Master may refer the matter to the Judge in Chambers.

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TOP

CHAPTER XXIII
GARNISHEE PROCEEDINGS

345. Garnishee Notice.- Upon the application of the decree holder, the Prothonotary and Senior Master may, in the case of-

(1) any debt (other than a debt secured by a mortgage or a charge or a negotiable instrument), which the Civil Courts are not precluded from adjudicating upon by any law for the time being in force and which has been attached under Order XXI rule 46 of the Code of Civil Procedure; or

(2) any movable property not in the possession of the judgment-debtor which has been attached under Order XXI, rule 46 of the Code of Civil Procedure; or

(3) any negotiable instrument which has been attached under Order XXI, rule 51 of the Code of Civil Procedure; or

(4) any movable property of the nature referred to in Clauses (1) to (3) above in the custody of any public officer other than an officer of any Court, which has been attached under Order XXI, rule 52 of the Code of Civil Procedure;

issue a notice to any person liable to pay to the judgment-debtor such debt or the amount due under such negotiable instrument or liable to deliver such movable property or to account for it to the judgment-debtor (hereafter referred to as "the Garnishee") calling upon him within the period specified in the notice either to pay into Court the said debt or amount payable under the said negotiable instrument or deliver into Court the said movable property, as the case may be, or so much thereof as may be sufficient to satisfy the decree or order and the cost of execution or to appear before the Judge in Chambers and show cause why he should not be ordered to do so. The notice shall be served on the Garnishee, and if the Judge so directs, on the judgment-debtor also. The notice shall be in Form No. 47 and shall be served eight clear days before the returnable date thereof.

Provided that, if by any law for the time being in force, the jurisdiction to adjudicate upon the debt or claim relating to the negotiable instrument or movable property in respect of

TOP

which the application aforesaid is made is conferred on a Civil Court other than the High Court, the Judge in Chambers shall send the execution case to such competent Court and on such transfer the Court to which the case is transferred will deal with it in the same manner as if it had been originally instituted in that Court.

346. Procedure when Garnishee does not pay into Court or fails to appear. – Where the Garnishee does not, within the time specified in the notice or within further such time as the Judge may allow, pay into Court the said debt or the amount payable under the said negotiable instrument or does not deliver into Court the Said property or so much of the debt or amount or property as is sufficient to satisfy the decree or order and the cost of execution or does not appear and show cause against the notice, the Judge may order the Garnishee to comply with the terms of such notice or pass such other order as he may deem fit.

347. Procedure when Garnishee disputes his liability. – If the Garnishee disputes his liability, the Judge instead of making such order may order that any issue or question necessary for determining his liability be tried as though it were an issue in a suit, and upon the determination of such issue shall pass such order upon the notice as he may think fit.

348. If notice is dismissed, attachment to stand raised. – If the Garnishee appears in answer to the Garnishee notice and shows cause to the satisfaction of the Judge, the notice shall be dismissed and upon such dismissal the attachment order under Order XXI rule 46,51 or 52 of the Code of Civil Procedure shall stand raised and the prohibitory order, if any, shall stand discharged.

349. Claim of third person.- Whenever in any proceedings under this Chapter, it is alleged or appears to the Judge to be probable that some person other than the judgment – debtor is or claims to be entitled to the debt attached or the amount payable under the negotiable instrument or the property attached or claims to have a charge or lien upon or interest in such debt or amount or property, the Judge may order such third person to appear before the Judge, state the nature of his claim with particular thereof and if necessary, prove the same.

350. Order to be made on hearing third person. - After hearing such third person and any other person who may subsequently be ordered to appear, or in the case of such third or other person not appearing when ordered, the Judge may pass such order as hereinbefore provided

TOP

or such other order upon such terms, if any, with respect to the lien or charge or interest, if any, of such third person or other person as the Judge may deem fit and proper including an order that any question or issue necessary for determining the validity of the claim of such third or other person be tried as though it were an issue in a suit.

351. Order against Garnishee to be executable as a decree in favour of decree-holder. – (a) An Order made by the Judge under rules 346, 347 or 350 against the Garnishee shall be executable as if it were a decree of the Court in favour of the decree-holder.

(b) When money or amount under the negotiable instrument or property is received in Court as a result of an Order under rules 346,347 or 350 above, the money shall not be paid out and further steps in execution in respect of the negotiable instrument or property shall not be taken till the time for filing an appeal against the said order is over and where an appeal is filed, till further orders of the Appellate Court.

352. Discharge of Garnishee. – Any payment or delivery made by a Garnishee in compliance with a garnishee notice, or an order made against him under this Chapter or any money or property realised in execution of an order under this chapter shall be a valid discharge of the Garnishees' liability to the Judgment debtor and to any other person ordered to appear as aforesaid to the extent of the amount paid or property delivered or property realized in execution, although the decree or order in execution of which the application under rule 345 was made or the order passed in the proceedings on such application may be set aside or reversed.

353. Garnishee proceedings against a firm.- Where a debt due by a firm to the judgment debtor has been attached, the firm may be proceeded against under this Chapter in the same manner as in the case of an ordinary Garnishee and the provisions of Order XXX of the Code of Civil Procedure shall, so far as applicable, apply to such proceedings, although one or more partners of such firm may be resident outside the jurisdiction of the Court; provided that any person having the control or management of the partnership business or any partner of the firm who is within the jurisdiction of the court is served with the Garnishee notice. An appearance by any partner pursuant to such notice shall be sufficient appearance by the firm.

TOP

354. Cost to be in the discretion of the Judge. – The cost of any application under this Chapter and of any proceedings arising there from or incidental thereto, and of any order made thereon, shall be in the discretion of the Judge.

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TOP

CHAPTER XXIV

GUARDIAN OF MINORS AND OF PERSONS OF UNSOUND MIND

355. Application for foreigner for appointment as guardian of person or property of minors. – (a) When a foreigner makes an application in person, or through an Advocate, for being appointed as the guardian of the person or property of a minor not related to him, such Advocate or party in person shall address a letter to the Secretary of the Indian Council of Social Welfare, Bombay, forwarding therewith a copy of such application, and informing him of the date fixed for the hearing thereof, and further requesting him that any representation which the Indian Council of Social Welfare may make in the matter, should be submitted to the Prothonotary and Senior Master of this Honorable Court, in writing in duplicate four days before the hearing of the said application and that such a representation would be considered by the Court before passing the order on the application . The Court may, while passing the order on the application, direct the applicant to pay, as condition precedent, such sum as it may fix to the Indian Council of Social Welfare, Bombay, as costs of making the representation. If costs are awarded to the Council, the Prothonotary and Senior Master shall not issue a certified copy of the order made on the application, to the applicant, until he produces a receipt from the Council for payment of their costs awarded to the Court.

Endorsement of copies of orders to the Government of India. – (b) Whenever foreign nationals are declared of Indian Children with permission to remove such children out of India under the provisions of the Guardians and Wards Act, 1890, copies of such orders shall be endorsed to the Government Of India, Ministry of Education and Social Welfare (Department of Social Welfare).

356. Commissioners to be informed of the appointment of a guardian of minor's property etc. - When an order is made appointing a person guardian of the property of a minor, the Prothonotary and Senior Master shall, on issuing the order of appointment, forward to the Commissioner a certificate stating the name of such guardian and the terms and conditions, if any, on which such appointment has been made.

357. Instructions to guardians. - Except in cases falling under Rule 355 above, whenever an order is made declaring or appointing a person the guardian of the person or of the

TOP

property of a minor, there shall be annexed to the order instructions for the guidance of such guardian in Form No. 79 with such variations as the circumstance of the case may require.

358. Deposit of minor's money. - When the Court is of the opinion that it is necessary to safeguard the moneys which a minor is entitled to in a suit or matter, the Court, shall ordinarily direct that the moneys belonging to the minor be deposited with the Accounts Officer of the High Court. When making the order, the Court shall, as far as possible, state the date of birth of the minor or the age of the minor. Such statement shall be incorporated in the decree or order.

359. Investment of minor's money - When a decree or order directs money to be deposited with the Accounts Officer on behalf of a minor in a suit or matter, the Accounts Officer shall, unless otherwise ordered invest the money in securities prescribed in Rule 857. Any surplus interest in his hands not required to be paid over to the minor or his guardian and aggregating to Rs. 200 or over shall also be invested by the Accounts Officer in the said securities.

The Accounts Officer shall forward a statement of such investments of the Prothonotary and Senior Master for the information of the Chief Justice every year.

360. Certain rules to apply to guardians of minors. – Rules 512, 513,514,515,590,594(a) and 595, shall, with any necessary modifications, apply to a guardian of the person or property of a minor appointed by the Court.

361. Commissioner's certificate to be obtained before depositing unascertained sum with Accounts Officer. - When a decree or order directs an unascertained sum to be deposited with the Accounts Officer of the High Court on behalf of a minor, the party concerned or his Advocate on record shall lodge in the office of the Commissioner accounts with all vouchers relating thereto for verification in a summary manner of the sum to be deposited and shall obtain from the Commissioner a certificate as to the correct amount of such sum. The Accounts Officer shall not receive any such sum unless accompanied by such a certificate, provided however that this certificate, shall not be required when money is deposited either by the Prothonotary and Senior Master or by the Commissioner or by the Court Receiver, or if such certificate is expressly dispensed with by order of the Court or the Judge in Chambers.

TOP

362. Ascertained amount to be deposited and Accounts Officer's receipt to be produced before Commissioner. - Within seven days from the issue of the Commissioner's certificate mentioned in Rule 361 the party concerned or his Advocate on record shall forward the amount specified in the Certificate to the Accounts Officer and within seven days thereafter shall produce before the Commissioner for his inspection the receipt of the Accounts Officer in respect of the amount so forwarded. In default of the production of the said receipt within the period aforesaid, the Commissioner shall refer the matter to the Judge in Chambers, who after hearing the party concerned or Advocate on record shall make such order as he may deem fit.

363. Bond by guardian of property of minor. - The bond to be given by a guardian of the property of a minor shall, unless otherwise ordered, be with two sufficient sureties to be approved of by the Prothonotary and Senior Master and shall be in Form No. 80 with such variations as the circumstances may require.

364. Rules in this chapter to apply to persons of unsound mind. – The provisions contained in the rules in this Chapter shall, with any necessary modifications, apply to persons of unsound mind.

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TOP

CHAPTER XXV

RECEIPTS AND PAYMENTS BY OFFICERS OF THE COURT

365. Time for making cash deposits in Court:- Deposit in cash will not be accepted by any of the officers of the High Court after 1-00 p.m. on week days and after 12-00 noon on Saturdays.

366. Applications for withdrawals of securities or moneys lying with High Court Officers:- Every application for an order for withdrawal of Government and other securities or for withdrawal of moneys in the hands of the Prothonotary and Senior Master, the Commissioner for taking accounts, the Accounts Officer, High Court, the Sheriff or a Receiver shall be supported by an affidavit, instituted in the suit or matter, showing the right and interest of the party applying, and shall be accompanied by the certificate of the Officer in whose hands such securities or moneys may be, certifying the amount of cash and particulars of the securities in his hands.

367. Application for issue of Certificate:- The certificate mentioned in the last preceding rule may be obtained on addressing a letter to such officer, requesting the issue of such certificate and stating the interest of the party and the object for which the certificate is required. The letter shall be signed by the party interested in such securities or moneys or by his Advocate on record.

[1]**[R. 367-A. Withdrawal of the amount by minors permanently residing outside, Bombay on attaining majority and in certain other cases:-** (1) A Minor, who permanently reside outside Bombay, may, on attaining majority, send to the Office of the Accounts Officer. an Affidavit in English duly affirmed by him or her at the place where he or she resides, annexing thereto the proof of his or her date of birth and also an advance receipt duly signed by him or her and identified by an Advocate practicing in the locality where he or she resides or by a Notary for payment of the amount due and payable to him or her provided such amount does not exceed Rs10,000.

1 . Rule 367-A was inserted by G .N .No. G/Amend/4504, dated 22.6.1992. See 1992 M.G.G. Pt. IV-Ka, Pg. 386.

TOP

The Accounts Officer shall, on receipt of such affidavit, make a report to the Chamber Judge who may pass such orders thereon for payment on such terms and conditions as he deems fit and proper.

The Accounts Officer shall, immediately upon the Order of payment being made by the Chamber Judge, send the payment by an Account Payee Cheque drawn in the name of the Applicant by Registered Post, acknowledgment Due, after deducting there from the requisite registration charges.

(2) The Chamber Judge may, in exercise of his discretion, permit withdrawal of amounts not exceeding Rs.10,000 to applicants other than a minor by following the procedure prescribed in sub-rule (1).

(3) The procedure prescribed in sub-rule (1) shall also be applicable to applications for withdrawal of monies in hands of the Prothonotary and Senior Master, Commissioner for Taking Accounts, Official Assignee, Court Receiver, Sheriff of Bombay or any other Department of the High Court where the amount involved does not exceed Rs. 10,000. On receipt of the necessary affidavit from the applicant concerned, the Head of the concerned Department of the High Court and the Sheriff of Bombay shall make a report to the Chamber Judge, and the Chamber Judge may, by order, permit withdrawal of the amount due to the applicant, on such terms and conditions as he deems fit.]

368. Written authority of client requisite for payment to advocate on record:- Unless otherwise ordered by the Court or the Judge in Chambers no payment in a suit or matter, save and except when it is in respect of costs, shall be made to an or Advocate on record on behalf of his client without the written authority of the client for such payment properly attested.

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TOP

CHAPTER XXVI
TESTAMENTARY AND INTESTATE JURISDICTION

369. Definitions. – In this chapter, unless there is anything repugnant in the subject or context –

(a) "Judge in Chambers" means the Judge hearing testamentary matters in Chambers;

(b) "Letters of Administration" includes letters of administrations with the will annexed;

(c) "Will" includes a codicil

370. Non-contentious matters. – Non-contentious matters shall include applications for probate or letters of administration or succession certificate and the obtaining thereof when there is no contest as to the right thereto. They shall also include the issuing of Probate or Letters of Administration or succession certificate in contentious cases when the contest in terminated, and all *ex-parte* applications in matters of testacy and intestacy, not being proceedings in any suit.

371. Powers of the Prothonotary and Senior Master. – The Prothonotary and Senior Master shall have full power to administer oaths or solemn affirmations in all matters relating to the testamentary and intestate jurisdiction of the Court, to issue sub-poenas to bring in and lodge testamentary papers and documents and to exercise in non-contentious matters the powers conferred by the Indian Succession Act, 1925, on the District Judge.

372. Application through Advocate or in person. – Application for probate or letters of administration or succession certificate shall be made either in person or through an Advocate entitled to practice in this Court.

373. Application by parties in person. Personal attendance. - Persons desirous of applying in person for grant of probate or letters of administration or succession certificate shall not apply by letter, but shall attend in person at the office of the Prothonotary and Senior Master. All fees payable by such parties shall be paid in advance in Court fee Stamps.

TOP

374. Application for probate. - The application for probate shall be made by Petition. There shall be annexed to the petition a copy of the last will and testament of the deceased. If the will be not in the English language, an official translation thereof shall be annexed. The original will shall be file separately and kept by the Prothonotary and Senior Master in the strong room of his office. There shall also be annexed to the petition (1) a schedule of the property and credits which the deceased died possessed of or entitled to at the time of his death which have or are likely to come to the petitioner's hands, (2) a schedule showing the debts of the deceased and all other items which by law the petitioners is allowed to deduct for the purpose of ascertaining the net estate of the deceased, and (3)a schedule of property , if any, held by the deceased is trust for another and not beneficially or with general power to confer a beneficial interest. The petition shall be in Form No. 97 with such variations as the circumstances of each case may require and shall be accompanied by-

(a) the vakalatnama signed by the petitioner (Form No. 5), unless the petitioner appears in person;
(b) the executor's oath (Form No. 101);
(c) the affidavit of one of the attesting witnesses, if available (Form No. 102); and
(d) a copy of the estate duty return, if filed with the Controller of Estate Duty.

The schedules to the petition shall be in Form No. 98, 99 and 100 respectively with such variations as the circumstances of each case may require.

375. Application for Letters of Administration where the deceased has left a will - The application for letters of administration in cases where the deceased has left a will shall be made by petition. There shall be annexed to the petition a copy of the last will and testament of the deceased. If the will be not in the English language, an official translation thereof shall also be annexed. The original will shall be filed separately and kept by the Prothonotary and Senior Master in the strong room of his office. There shall also the annexed to the petition (1) a schedule of the property and credits which the deceased died possessed of or entitled to at the time of his death which have or are likely to come to the petitioner's hands, (2)a schedule showing the debts of the deceased and all other items which by law the petitioner is allowed to deduct for the purpose of ascertaining the net estate of the deceased and (3) a schedule of property, if any, held by the deceased in trust for another and not beneficially or

TOP

with general power to confer a beneficial interest. The petition shall be in Form No. 105 with such variations as the circumstances of each case may require and shall be accompanied by –

(a) the vakalatnama signed by the petitioner (Form No. 5), unless the Petitioner appears in person;
(b) the administrator's oath (Form No. 106);
(c) the affidavit of one of the attesting witnesses, if available. (Form No. 102)' and
(d) a copy of the estate duty return, if filed with the Controller of Estate Duty.

The Schedules to the petition shall be in Forms No. 98, 99 and 100 respectively with such variations as the circumstances of each case may require.

376. Application for Letters of Administration where the deceased died intestate. – The application for letters of administration in cases where the deceased has died intestate shall be made by petition. There shall be annexed to the petition (1) a schedule of the property and credits which the deceased died possessed of or entitled to at the time of his death which have or are likely to come to the petitioner's hands.(2)a schedule showing the debts of the deceased and all other items which by law the petitioner is allowed to deduct for the purpose of ascertaining the net estate of the deceased, and (3) a schedule of property, if any, held by the deceased in trust for another and not beneficially or with general power to confer a beneficial interest. The petition shall be in Form No. 103 with such variations as the circumstances of each case may require and shall be accompanied by –

(a) the vakalatnama signed by the petitioner (Form No. 5) unless the petitioner appears in person;
(b) the administrator's oath (Form No. 104); and
(c) a copy of the estate duty return, if filed with the Controller of Estate Duty.

The schedule to the petition shall be in Form No. 98, 99 and 100 respectively with such variations as the circumstances of each case may require.

377. Application for succession certificate.—The application for succession certificate shall be made by petition. There shall be annexed to the petition a schedule of the property of

TOP

the deceased in respect of which the succession certificate is applied for. The petition shall be in Form No. 110 with such variations as the circumstances of each case may require and shall be accompanied by—

(a) the vakalatnama singed by the petitioner (Form No.5), unless the petitioner appears in person;

(b) the petitioner's oath (Form No.112); and

(c) a copy of the estate duty return, if filed with the Controller of Estate Duty.

The schedule to the petition shall be in Form No.111 with such variations as the circumstances of each case may require.

378. Name, etc., of petitioner and caveator in petition and caveat. The name, place of residence, description and occupation, if any, of the petitioner shall be given in every petition and of the caveator in every caveat

379. Verification of petition. – The petition for probate or letters of administration or succession certificate shall be subscribed by the Petitioner and his Advocate on record (if any), and shall be verified by the petitioner in the manner prescribed for verification of plaints.

380. Payment of Court-fees - The Court-fees noted at the foot of the notice issued by the Prothonotary and Senior Master shall be paid within three days after receipt of such notice.

381. Certificate of Prothonotary and Senior Master for court-fee paid in advance. - Every application for probate or for letters of administration or for succession certificate shall be accompanied by the certificate of the Prothonotary and Senior Master that the Court fees payable has been paid, unless the Judge in Chambers otherwise directs.

382. Delay in application – In any case where an application for probate or letters of administration or succession certificate is made for the first time after the lapse of three years from the death of the deceased, the reason for the delay shall be explained in the petition. Should the explanation be unsatisfactory, the Prothonotary and Senior Master may require such further proof of the alleged caused of delay as he may deem fit.

TOP

383. Interlineations, alterations, etc., in the will should be sworn to by the attesting witness. - When interlineations, alterations, erasures or obliterations appear in the will (unless duly executed as required by the Indian Succession Act, 1925, 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. If the attesting witness is unable to make the statement, he shall state so in the affidavit.

384. In absence of attesting witness, other evidence to be produced. – If it is not possible to file an affidavit of any of the attesting witnesses, an affidavit of some other person, if any, who may have been present at the execution of the will shall be filed, but if no affidavit of any such person can be filed, evidence on affidavit shall be produced of that fact and of the handwritings of the deceased and attesting witnesses, and also of any circumstances which may raise a presumption in favour of due execution.

385. Production of deed, paper, etc., referred to in will. – If a will contains a reference to any deed, 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 deed, paper, memorandum or other document shall be produced, with a view to ascertain whether it is entitled to probate, and if not produced, its non-production shall be accounted for.

386. 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 shall be clearly proved by affidavit or otherwise.

387. Attempted cancellation to 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 shall be accounted for.

388. Application for probate of nun-cupative or privileged will. - Application for probate of a non–cupative or privileged will shall be referred for disposal to the Judge in Chambers.

TOP

389. Disclosure of all persons having prior right to the grant. - the petition for letters of administration shall disclose the names of all persons having a prior right to the grant and shall state whether the party applying is the only next-of-kin of the deceased.

390. Administration to a creditor. - In all applications by a creditor for letters of administration, it shall be stated particularly how the debt arose.

391. Marking will. - Every will, copy of a will or other testamentary paper, which is sworn to or affirmed by an executor or administrator, shall be marked by the person before whom the oath or affirmation is made.

392. Proof of identity – The Prothonotary and Senior Master may, in cases where has deems it necessary, require proof, in addition to the statements made in the petition for probate, or letters of administration or succession certificate, of the identity of the deceased or of the party applying for the grant.

393. Renunciation of probate or letters of administration. – No. person, who renounces probate of a will or letters of administration to the property of a deceased person in one character, shall, without the leave of the Judge in chambers, apply for representation to the estate of the same deceased in another character.

394. Application by constituted attorney - An application for letters of administration or succession certificate may be made by a constituted attorney of a person residing out of the State of Maharashtra, provided that such constituted attorney resides within the State and that such application is made through an Advocate entitled to practice in this Court.

395. Proof of execution of power of attorney – Unless a power of attorney appointing a constituted attorney 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 Prothonotary and Senior Master may require further proof of its due execution.

396. Notice of application to whom to be given – The Prothonotary and Senior Master shall give notice of all applications for probate or letters of administration to the Collector of Bombay and the Superintendent of Stamps.

TOP

397. Notice of next-of-kin – (1) In all applications for probate, letters of administration and succession Certificate, notice of the application shall be given to all the heirs and next-of-kin of the deceased mentioned in the petition except to those whose consent has been filed in the proceedings.

(2) In all applications for probate and letters of Administration the citation shall be affixed on some conspicuous part of the Court house and also in the office of the Collector of Bombay.

(3) In all applications for succession certificate, notice of the application shall be affixed on some conspicuous part of the Court house.

(4) No grant of probate, letters of administration or succession certificate shall be made until after the expiry of fourteen clear days from the date of the service of the citation or notice, and from the publication there of in newspapers, if any, and from the affixing thereof on the court house and in the Collector's Office as the case may be, unless the Judge in Chambers otherwise directs.

398. Issue and return of processes. – All processes and citations shall issue from and be returnable to the office of the Prothonotary and Senior Master and shall be prepared, signed and dated by him or one of his assistants and sealed executed and returned, in the same manner as processes in suits on the Original Side of the Court.

399. Service of citations – Citations shall be served personally when possible. Personal service shall be affected by leaving a true copy of the citation with the party cited and taking his acknowledgement on the original.

400. Service by advertisement – Citations which cannot be personally served as required by the last preceding rule shall be served by publishing the same in such local newspapers as the Prothonotary and Senior Master may direct.

401. Caveat – Any person intending to oppose the grant of probate or letter of administration shall file a caveat in Form No. 116 within fourteen days from the service of the citation upon

TOP

him or within such shorter time as the Judge in Chambers may direct. Notice of the filing of the caveat shall be given by the Prothonotary and Senior Master to the petitioner or his Advocate on record. The Judge in Chambers may extend the time to file a caveat, provided the grant has not in the meantime been issued.

402. Affidavit in support of caveat. – An affidavit in support of a caveat shall be filed within eight days from the date of the filing of the caveat, notwithstanding the Court vacations. Such affidavit shall state the right and interest of the caveator, and the grounds of the objections to the application. A copy of the said affidavit shall be served by the caveator on the petitioner or his advocate on record. If such affidavit be not filed within the prescribed time, the caveat shall not prevent the grant of probate or letters of administration. No such affidavit shall be filed after the expiry of the said eight days without an order of the Judge in Chambers.

403. Procedure on affidavit in support of caveat being filed – (i) Upon the affidavit in support of the caveat being filed, the petition shall be numbered as suit in which the petitioner shall be the plaintiff and the caveator shall be defendant. Notice of the fact that the petition has been renumbered as a suit shall be given by the Prothonotary and Senior Master to the petitioner or his Advocate on record. The notice shall be in Form No. 117. The petition shall be treated as the plaint and the affidavit in support of the caveat shall be treated as the written statement of the caveator. The procedure in such suit shall, as nearly as may be, be according to the procedure applicable to civil suits on the Original Side of the Court.

ii) Where there are two or more caveators and each of them has filed an affidavit in support of his caveat, separate suit numbers shall not be given to the petition, but all the caveators shall become party defendants in one suit.

404. Chamber summons for directions – On the petition being numbered as a suit, the plaintiff shall apply by Chamber Summons to the Judge in chambers for directions. The application shall be made within ten days from the date of the filing of the affidavit in support.

405. Notice to prove will in solemn from – In a testamentary suit the party opposing the will may, with his affidavit, give notice to the party setting up the will that he merely insists upon

TOP

the will being proved in solemn from 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.

406. Affidavit opposing grant of succession certificate. – Any person intending to oppose the grant of succession certificate shall, within fourteen days from the service of the notice upon him or within such shorter time as the Judge in Chambers may direct, file an affidavit stating his right and interest in the estate of the deceased and the grounds of his objection to the application. A copy of the said affidavit shall be served on the petitioner or his Advocate on record. The petition shall be placed on the board of the Judge in Chambers on a day to be fixed by the Prothonotary and Senior Master. The Prothonotary and Senior Master shall notify on his notice board the date on which such petition shall be set down for hearing and he shall do so at least eight days before such date. If a party has appeared in person, the Prothonotary and Senior Master shall give notice of the date to such party by sending a letter to him by post under certificate of posting.

At the hearing of the petition, the Judge may make such order as he may deem fit.

407. Procedure when two or more petitions for succession certificate are filed - When two or more petitions have been filed for the grant of a succession certificate, the petitions shall be placed on the board of the Judge in chambers on a day to be fixed by the Prothonotary and Senior Master. The Prothonotary and Senior Master shall notify on his notice board the date on which such petitions shall be set down for hearing and he shall do so at least eight days before such date. If a party has appeared in person, the Prothonotary and Senior Master shall give notice of the date to such party by sending a letter to him by post under certificate of posting.

At the hearing of the petitions, the Judge may make such order as he may deem fit.

408. Provisions regarding indigent person to apply – The provisions of Order XXXIII of the Code of Civil Procedure and the rules relating to suits by indigent persons contained in Part II, Chapter XIII shall, with any necessary modifications, apply to applications for probate, letters of administration and succession certificate.

TOP

In cases where the petitioner has been given leave to proceed as an indigent person the Prothonotary and Senior Master shall, before issuing the grant, place the papers before the Judge in Chambers and the Judge may impose such terms and conditions on the petitioner as he thinks fit to secure payment of the court fees payable.

409. Search of proceedings - Search of proceedings shall be granted only on precipes signed by the applicant or his Advocate on record.

410. Certified copies - Certified copies of wills and other documents furnished by the office shall be signed by the Prothonotary and Senior Master or one of his assistants and shall be sealed with the seal of the Court.

411. Production of papers in High Court – An application for production of papers and proceedings in the High Court shall be made to the Prothonotary and Senior Master before 4-15 p.m. on the day previous to that on which they are required, stating the reasons therefore.

412. Production of papers in other Courts – No papers and proceedings filed in the office shall be produced in Courts other than the High Court without the order of the Judge in Chambers, and no original will filed in the office shall be produced in any place beyond the limits of the High Court, except in the custody of one of the clerks of the office of the Prothonotary and Senior Master and under a like order.

413. Grants limited to State of Maharashtra - All grants of probate or letters of administration shall, unless otherwise ordered, be issued by the Prothonotary and Senior Master so as to have effect only throughout the State of Maharashtra

414. Grants throughout India - In all cases in which it is ought to obtain grant of probate or letters of administration to have effect throughout India, such grant shall be expressly asked for, and it shall be further stated in the petition that, so far as the petitioner has been able to ascertain or is aware, there are no property and credits other than what are specified in the schedule attached to the petition.

TOP

415. Amendment of grant to extend to India - A grant, limited to the State of Maharashtra, may be amended on obtaining an order from the Prothonotary and Senior Master so as to extend its effect throughout India. The application shall be by affidavit stating where the additional property and credits are situate. The Prothonotary and Senior Master shall make the order for amending the grant on the petitioner paying the court fee in respect of the additional property and credits and in the case of grant of letters of administration on the petitioner giving a further bond in respect of the said property and credits.

416. Application for extension of succession certificate – The Prothonotary and Senior Master may extend a succession certificate to any debt or security not originally specified therein. The application for such extension shall be by affidavit stating the particulars of the debt or security; and on payment of the court fee payable in respect thereof and on the petitioner giving a further bond, if required, the certificate may be extended.

417. Limited letters of administration - Unless otherwise ordered by the Judge in Chambers, limited letters of administration shall not be granted unless every person entitled to the general grant has consented or renounced or has been cited and has failed to appear.

418. Limited grant not to be issued to person entitled to general grant. – Unless otherwise ordered by the Judge in Chambers, a limited grant shall not be issued to a person who is entitled to a general grant of administration to the property of the deceased.

419. Blind or illiterate testator – The Prothonotary and Senior Master shall not grant probate of the will or letters of administration with the will annexed of any blind or obviously illiterate or ignorant person, unless he has satisfied himself that the said will was read over to the testator before its execution, and that the testator understood at such time the contents thereof.

420. Administration Bond in the case of Letters of Administration – (a) In all cases of letters of administration, save and except under section 241, Indian Succession Act, 1925, the person to whom the grant is made shall give a bond in Form No. 118 with one surety and the bond shall, unless the Judge in Chambers otherwise directs, be given for the gross value of the estate. Such bond shall be prepared in the registry.

TOP

(b) The exception made above in respect of a grant under section 241 shall not operate when the deceased is a Hindu, Muslim, Buddhist, Sikh or Jain.

421. Administration Bond in the case of Succession Certificate. - In all cases of succession certificate, the person to whom the grant is made shall give a bond in Form No. 120 with one surety and the bond shall, unless the Judge in Chambers otherwise directs, be given for the gross value of the estate. Such bond shall be prepared in the registry.

422. Surety to be justified in certain cases – (a) In the following cases the surety to the bond shall justify for the whole amount of the estate –

(i) When the person to whom the grant is made has taken out letters of administration or succession certificate for the use and benefit of a lunatic or person of unsound mind, unless he be a committee of the estate of such lunatic appointed by the Court and has given security.

(ii) When the person to whom the grant is made has taken out letters of administration or succession certificate for the use and benefit of a minor, unless he be a guardian of the property of such minor appointed by the Court and has given security.

(iii) When the person to whom the grant of letters of administration or succession certificate is made is entitled to a life interest.

(b) When the person to whom the grant of letters of administration or succession certificate is made is entitled to a portion only of the estate, the surety to the bond shall justify for the whole estate less the share of the grantee and of such sharers as shall consent in writing thereto.

(c) In all other case the surety may be a common surety. The Judge in Chambers may, however, in a proper case and for reasons to be recorded in writing dispense with the justification of surety.

TOP

423. Companies of sureties – An approved company may be accepted as a common or justifying surety and in such cases the bond shall be given for the amount of the property for which the grant is to be made. The Prothonotary and Senior Master shall maintain a list of companies approved for this purpose by the Chief Justice

424. Attestation of bonds. – Administration bonds shall be attested by a Gazetted Officer of the Court or the Chief Superintendent of the office of the Prothonotary and Senior Master or, if executed outside the Court house, by such person as may be nominated by the Prothonotary and Senior Master for that purpose.

425. Application under section 10 of the administrators General Act, 1963 – An application under section 10 of the Administrators General Act, 1963, (Act. No. 45 of 1963) shall be made by petition and presented to the Judge hearing testamentary matters in Court.

426. Probates etc., to be drawn up by the office – All probates or letter of administration or succession certificates shall be drawn up by the office of the Prothonotary and Senior Master and Shall be in Forms Nos. 121, 122, 123, 124, 125, 128 or 129 as the case may be, with such variations as the circumstances of each case may require.

427. Schedules of property etc., to be annexed to grant – Copies of the schedules annexed to the petition for probate or letters of administration shall be annexed to the grant of probate or letters of administration.

428. Grant under section 254 of the Indian Succession Act – Whenever under section 254 of the Indian Succession Act, 1925, the Court appoints as administrator a person other than the person who would have been entitled to the grant, the fact shall be so stated in the grant.

429. Prothonotary may refer a matter to the Judge - In the case of doubt or difficulty in any non-contentious matter, the Prothonotary and Senior Master may refer the matter to the Judge in Chamber.

430. Registers of grants – All grants of probate, letters of administration and succession certificate issued during a calendar year along with the wills and their translations, if any, shall be copied out in registers to be maintained by the Prothonotary and Senior Master.

TOP

431. Certificate under section 274(1) (a) of the Indian Succession Act - With every certificate to be sent to a High Court under the provisions of section 274(1) (a) of the Indian Succession Act, 1925, the Prothonotary and Senior Master 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.

432. Bills of costs in suits – All bills in testamentary suits shall be taxed in the same manner as in other civil suits.

433. Notice by executor or administrator to creditors under sections 360 and 367 of the Indian Succession Act – Where an executor or administrator has given notice to creditors and others in the form contained in Form No. 134, such notice shall be deemed to satisfy the requirements of sections 360 and 367 of the Indian Succession Act, 1925.

434. Notice to be given to parties of the filing of the account – Executors, administrators and holders of succession certificate who have filed in the Court an account of their administration shall give notice thereof to all parties on whom the citation or notice had been served before the grant or who had waived service thereof, and shall within two weeks from the filing of the account file in the proceedings an affidavit proving service of such notice.

435. Disposal of petitions for non-prosecution – All testamentary petitions, in which grants or certificates have not be issued owing to non-prosecution of the petitions for one year after the petitions have been filed, shall be treated as disposed of and no action shall be taken on such petitions, unless an order is obtained from the Judge in Chambers giving permission to the petitioner to proceed with the petition already field.

436. Practice – In cases not provided for by this Chapter, or by the rules of procedure laid down in the Indian Succession Act, 1925, or by the Code of Civil Procedure, the Judge may, if he thinks fit, follow the practice and procedure of the Probate Division of the High Court of Justice in England, so far as they are applicable and not inconsistent with this Chapter and the said Act and the said Code.

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TOP

CHAPTER XXVII
SECURITY

437. Security to be furnished to Prothonotary and Senior Master:- When security is ordered to be furnished, it shall, unless otherwise ordered to be given to the Prothonotary and Senior Master or to such other Officer as the Court or the Judge in Chambers may direct.

438. Notice to be given to the opposite party: - The Prothonotary and Senior Master shall before accepting the security direct notice to issue to the person for whose benefit the security is to be given (hereinafter in this Chapter referred to as the "opposite party"); provided that where the security consists of cash or securities of the Government of India or of the Government of Maharashtra or Bombay Port Trust Bonds or Bombay Municipal Bonds, the issue of notice may be dispensed with.

Unless otherwise ordered or consented to by the opposite party, four days' notice of the meeting to consider the security shall be given by the party tendering the security to the opposite party.

439. Particulars of security to be furnished: - The party tendering the security shall, along with the notice, furnish to the opposite party particulars of the security proposed to be offered and shall also file the same in the Office of the Prothonotary and Senior Master.

440. Immovable property offered as security: - If the security offered consists of immovable property, inspection of the title deeds of the property shall be given to the opposite party. If the security is accepted by the Prothonotary and Senior Master, the title deeds shall be deposited in the Office of the Prothonotary and Senior Master and the party offering the title deeds shall sign a bond in favour of the Prothonotary and Senior Master.

441. Surety or sureties as security:- (i) If the security required to be furnished is of a bond to be give by a surety or sureties, particulars of the name and address of each surety as also the residence of each surety during the preceding six months and the description of the property which such surety may offer for the purpose of justification shall, along with the

TOP

notice, be furnished to the opposite party and the same shall also be filed in the Office of the Prothonotary and Senior Master.

(ii) Every person offering himself as a surety shall, unless the opposite party consents to the acceptance of such person as surety, produce before the Prothonotary and Senior Master documents relating to the property which he offers for the purpose of justification and shall make his affidavit in that behalf.

(iii) The affidavit of justification shall be deemed insufficient, unless it states that the person justifying is worth the amount required, over and above what will pay his just debts and over and above every other sum for which he is then surety.

(iv) The Prothonotary and Senior Master may direct that the person justifying be examined on oath touching the value of his property and the debts and liabilities to which he is subject.

(v) Unless otherwise ordered, an offer of more than two sureties shall not be accepted.

(vi) If the surety is accepted, the surety shall sign a bond in favour of the Prothonotary and Senior Master.

442. Companies or corporations as sureties: - A bond given by a company or a corporation, approved by the Chief Justice, may be accepted as security. The Prothonotary and Senior Master shall maintain a list of companies and corporations approved for this purpose by the Chief Justice.

443. Assignment of Bond: - The Court or the Judge in Chambers may order the Prothonotary and Senior Master to assign the bond to any person for the purpose of suing on the same, on such terms as it or he may think fit.

444. Rules in this Chapter relating to Prothonotary to apply to other officers: - When security is ordered to be given to an officer other than the Prothonotary and Senior Master the provisions in this Chapter relating to the Prothonotary and Senior Master shall, with any necessary modifications, apply to such other officer.

****

TOP

CHAPTER XXVIII

OFFICE OF THE SHERIFF OF BOMBAY

445. Sheriff to serve and execute process:- The Sheriff shall execute the process of the High Court. He shall serve such process within the local limits of the Ordinary Original Civil Jurisdiction of the High Court by his bailiff or if the party so desires by registered post pre-paid for acknowledgement. Where the process is to be served beyond the said limits, the Sheriff shall serve the same by registered post pre-paid for acknowledgment. The Sheriff shall not be compellable to go in person or by his bailiff beyond the said limits for the purpose of serving or executing any process, unless so directed by the Court or the [1][Judge].

[2][In addition to above, Writ of Summons may be served as prescribed by Chapter VI (as amended) of these Rules.]

446. Special bailiff to execute process within limits:- Upon occasions when it may be necessary or expedient to get a writ of summons served or other process executed within the local limits of the Ordinary Original Civil Jurisdiction of the High Court by a person other than the Sheriff's bailiff, the Sheriff may appoint a person, nominated by the Advocate of the party, as his special bailiff for that purpose and in order to prevent any improper use or abuse of the process of the Court, the said Advocate shall give an indemnity to the Sheriff for its proper service or execution to the satisfaction of the Sheriff.

447. Special bailiff to execute process beyond limits:- Upon occasions when it may be necessary or expedient to execute process beyond the said ordinary limits, but within the limits of the State of Maharashtra, the Sheriff shall appoint such person as the Court or the Judge in Chambers may direct as his special bailiff for that purpose and in order to prevent any improper use or abuse of the process of the Court, the party at whose instance the same is issued shall give such security or indemnity to the Sheriff for its proper execution as the Court or the Judge in Chambers shall direct.

1. Substituted vide Notification No. G / Amend/610/2022, dated-24-03-2022.
2 . Inserted vide Notification No. G / Amend/610/2022, dated-24-03-2022.

TOP

[1][448. Time within which writ of summons to be lodged for service.-

(1) The Writ of Summons in Suits, other than Commercial Suits, shall be transmitted for service to the office of the Sheriff within two weeks from the date of issuance of Writ of Summons or from the date of any order for amendment of the Writ of Summons. If it is not so lodged, the Sheriff shall not accept the Writ of Summons for service, unless otherwise ordered by the Prothonotary & Senior Master or by the Judge

(2) The Writ of Summons in Commercial Suits shall be transmitted for service to the office of the Sheriff within ten days from the date of issuance of Writ of Summons or from the date of any order for amendment of the Writ of Summons. If it is not so lodged, the Sheriff shall not accept the Writ of Summons for service, unless otherwise ordered by the Judge

(3) After effecting the service by the office of Sheriff, the Advocate shall file affidavit of service within 2 weeks otherwise the office of Sheriff shall file the service report of the Bailiff directly to the Court thereafter.]

449. Date of lodging process to be noted on the process: - The Sheriff shall note on every process the date on which it was lodged in his office.

450. Service of certain notices:- All notices under sections 73 and 145 and under Order XXI, Rule 2, 16, 22, 34 and 37 of the Code of Civil Procedure shall be served through the Sheriff.

451. Sheriff to execute all warrants: - The Sheriff shall, unless otherwise ordered, execute all warrants of arrest, and of attachment and sale of movable and immovable properties in execution of decrees and orders of the Court.

452. Warrant for arrest of an insolvent: - (1) When forwarding to the Sheriff a warrant for the arrest of an insolvent or for the arrest of any person for contempt of Court, the Insolvency Registrar shall send with the warrant the Sheriff's fee for filing the same.

1. Substituted vide Notification No. G / Amend/610/2022, dated-24-03-2022.

TOP

(2) The Insolvency Registrar shall endorse on every bailable warrant issued by him in the name of the person before whom the bail is to be justified.

453. Battaki, when beaten:- For the purpose of Order XXI, Rules 36, 54, 67 and 96 of the Code of Civil Procedure, the Sheriff shall beat a *battaki* on the premises at the time action is taken under the said rules.

454. Writ of summons and other process not to be served on Saturdays, Sundays and holidays: - No writ of summons or other process shall be served or executed on Saturdays, Sundays and Holidays, except by leave of the Court or the Judge in Chambers. For such service or execution effected or attempted on the days aforesaid, the Sheriff shall be entitled to an extra fee.

455. Service at advocate's office not to be effected after 5.30 p.m.:- The Sheriff shall not serve a writ of summons or other process at the office of an Advocate after 5-30 p.m. on week days.

456. Service on Advocates:- (a) When service is to be effected on an Advocate, such service may be effected on the Advocate or on his assistant or clerk.

(b) When service is to be effected on a firm of Advocates, such service may be effected on any partner or assistant or clerk of such firm.

457. Service by parties in person: - Parties in person shall serve all summonses and other processes through the Sheriff.

458. Translation of process to be served on person not knowing English:- (a) When a summons or other process has to be served or executed, the Advocate at whose instance the summons or other process is issued shall certify whether the person to be served is conversant with the English language. If such certificate is not given, the Sheriff shall at the time of such service or execution also serve such person with a true translation of the summons or other process in the language with which such person is familiar:

TOP

Provided that where the person to be served is not familiar with English, Marathi, Gujarati or Hindi, it will be sufficient to serve such a person with a translation of the summons or other process in Hindi.

(b) Where it is necessary to affix a warrant or order of attachment on the house, land or tenement of any person for the purpose of executing such warrant or order of attachment, the Sheriff shall if such person is not certified as specified in clause (a) also cause to be affixed in some conspicuous place on the premises a true translation of the warrant or order in the language with which such person is familiar, and the proviso clause (a) will also apply.

(c) Sub-rule (a) will also apply, mutatis mutandis, to service of a Notice of Motion, summons for Judgment or Chamber Summons.

459. Service of summons or process received from the Registrar, High Court, Appellate Side :- Whenever a notice or other process is received from the Registrar of the High Court, Appellate Side, for service within the local limits of the Ordinary Original Civil Jurisdiction of the High Court, the Sheriff shall serve the same and return to the Registrar the original process, accompanied by an affidavit of the bailiff serving the process and also of the person or persons, if any, pointing out to him the party on whom the process has been served.

460. On receipt of precept, warrant of attachment to issue: - Where under section 46 of the Code of Civil Procedure, 1908, a precept is received by the Prothonotary and Senior Master, he shall forthwith issue the appropriate warrant of attachment and forward it to the Sheriff for execution. The Sheriff may refuse to execute the warrant, unless the fees due to him for execution are paid by the judgment-creditor and a representative of the judgment-creditor accompanies the bailiff to point out the property to be attached.

461. Deposit of subsistence allowance with warrant of arrest: - With every warrant of arrest there shall be deposited with the Sheriff the sum of Rs.5 for the interim subsistence of the judgment-debtor, pursuant to Order XXI, Rule 39(1) of the Code of Civil Procedure.

462. Judgment-creditor to make a deposit with the Sheriff for incidental expenses of maintenance of attached property: - When a warrant of attachment is lodged in the Sheriff's Office, the judgment-creditor shall deposit with the Sheriff such sum as will, in the

TOP

opinion of the Sheriff, be sufficient to cover the incidental expenses of maintaining possession of the property to be attached. When the amount deposited becomes insufficient to cover the said expenses, the Sheriff shall be entitled to call upon the judgment-creditor to deposit such further amount or amounts as he may deem fit. If the amount be not deposited, the Sheriff shall be entitled to withdraw from possession.

463. Sheriff to insure attached property if necessary: - In case where, in the opinion of the Sheriff, it appears necessary to insure movable or immovable property which has been attached, the Sheriff may have it insured and require the judgment-creditor to pay the insurance premium. If the judgment-creditor fails to pay the premium, the Sheriff shall report to the Judge in Chambers and obtain the Judge's directions after giving four days' notice to the judgment-creditor. The Judge may give such directions as to him may seem just.

464. Release of person arrested or property attached before judgment:- Any person arrested or any property attached before judgment shall be released from arrest and attachment by the Sheriff immediately on his being served with a certificate issued by the Prothonotary and Senior Master that sufficient security has been taken by that officer.

465. Judgment-debtor to be released on the written request of the judgment-creditor:- The Sheriff shall release the judgment-debtor on the written request of the judgment-creditor or his Advocate on record, unless some other warrant under which the judgment-debtor could be arrested has been lodged in his office.

466. Attachment to be withdrawn on the written request of the judgment-creditor:-The Sheriff shall withdraw the attachment levied on movable or immovable property on the written request of the judgment-creditor or his Advocate on record, unless some other warrant under which the said property could be attached has been lodged in his office.

467. Levy of sums mentioned in warrant of arrest or attachment:- The Sheriff shall receive or levy the sums mentioned in every warrant of arrest or of attachment and a sufficient sum of interest (where interest is payable) besides his own fees and poundage.

468. Release of judgment-debtor and withdrawal of attachment on receipt or realisation of moneys mentioned in the warrant:- On receipt or realisation of the moneys specified in the last preceding rule, the Sheriff shall, in the case of a warrant of arrest, release the

TOP

judgment-debtor, unless some other warrant under which the judgment-debtor could be arrested has been lodged in his office, and in the case of a warrant of attachment, withdraw the attachment, unless some other warrant under which the property in question could be attached has been lodged in his office.

469. Production before Judge of persons arrested order of committal, warrant of committal:- Every person arrested who is not released under any of the preceding rules shall, as soon as practicable, be brought before the Judge in Chambers or if he is not available, before any other Judge upon all warrants or arrest lodged against him in the Sheriff's office for an order of committal or otherwise, but in no case after 8-00 p.m. A note of the order and the rate of subsistence allowance fixed (if any) shall be endorsed on the warrant of arrest by the officer in the attendance and authenticated by him with his initials. Upon production in the Prothonotary and Senior Master's office of the warrant with an endorsement ordering a committal, a separate warrant shall be issued for the commitment of the person to jail, in which the rate of subsistence allowance if fixed as aforesaid shall be specified; Provided that in case of two or more warrants the Judge may apportion the subsistence allowance between the Judgment-creditors in such manner as he thinks just.

470. Production of persons arrested after 8 p.m.:- Every person arrested after 8.p.m. shall be immediately lodged in the civil jail and brought before the Judge in Chambers or if he is not available, before any other Judge at the opening of the Court the next day. If the next day happens to be a Sunday or other holiday, such person shall be brought before the Judge in Chambers or if he is not available, before any other Judge, at his bunglow.

471. Superintendent of jail to keep in custody person arrested or committed: - The Superintendent of the Civil Jail, Bombay shall receive and keep in his custody any person arrested by the Sheriff till the said person can be placed before a Judge for an order of committal or otherwise.

On an order of committal being made, the Sheriff shall lodge the said person in the Civil Jail and the Superintendent of the jail shall detain the said person until he is duly discharged according to law or the order of the Court. A certified copy of the warrant of committal shall be served on the Superintendent.

472. Production before Judge, under fresh warrant, of person already in custody: - When the Sheriff receives a warrant to arrest a person already in the custody of the

TOP

Superintendent of the Civil Jail, Bombay, under civil process, he shall forthwith bring the person before the Judge in Chambers or if he is not available, before any other Judge for an order of committal. The Judge may then apportion the subsistence allowance between the detaining creditors in such manner as he thinks just.

473. Application for production of person in custody: - If it shall at any time be necessary that a person in the custody of the Superintendent of the Civil Jail, Bombay should be brought up before the Court, the application for that purpose shall be supported by an affidavit and by the production of the Sheriff's return of having executed the warrant of arrest. The officer having the custody of the Sheriff's return shall cause the same to be produced before the Court on a request being made to him in writing by the person making the application.

474. Liability for Sheriff's poundage.— (1) In cases where a person is arrested or property is attached, the party or the Advocate on record for the party at whose instance the arrest was made or the attachment levied shall be liable to the Sheriff for his fees or poundage, as the case may be.

(2) Any amount received by the judgment-creditor from the judgment-debtor in full or part satisfaction of a decree or order in respect of which a warrant of arrest or a warrant of attachment has been executed shall be presumed to have been realized under the warrant, if the warrant is merely suspended and not dead.

(3) Where the execution-creditor or his Advocate on record receives direct any instalment or other sum ordered to be paid by the Judgment-debtor in full or part satisfaction of the decree or order, he shall file a precipe in the Sheriff's office informing him of the payment made.

(4) The Advocate on record shall be responsible for filling this precipe, if the payment has been made through his office or he has been informed of it by the execution-creditor.

475. Advocate to file in Sheriff's Office copy of order releasing judgment-debtor or raising attachment.—When an order is passed releasing a judgment-debtor or raising an attachment, the Advocate on record for the party at whose instance the order is made shall file a certified copy thereof in the Sheriff's Office and shall inform the Sheriff whether there

TOP

has been any satisfaction, compromise or settlement and, if so, for what amount and also whether poundage has been paid in respect thereof.

476. Satisfaction not to be entered without Sheriff's certificate. — Where warrants in execution have been lodged with the Sheriff, no satisfaction in full or part of any decree or order in any suit or matter shall be entered thereon without the production of a certificate of the Sheriff that no poundage is due to him.

477. Payment of money realised under warrant of arrest.—The Sheriff shall receive money tendered to him under any warrant of arrest and shall, unless otherwise ordered, pay the same to the judgment-creditor or to his Advocate on record if he is duly authorised and shall notify such payment to the Prothonotary and Senior Master.

Sheriff to certify receipt of money in other cases.—In all other cases, whenever the Sheriff shall receive money under warrants of attachment or realise assets by sale or otherwise from the property of the judgment-debtor, he shall soon thereafter certify to the Court the amount and the date of such receipt or realisation and shall hold the same until further orders of the Judge in Chambers or the Prothonotary and Senior Master : Provided that when a portion of the pay or salary of a Judgment-debtor is paid monthly to the Sheriff in execution of a decree or order, he shall certify the same to the Prothonotary and Senior Master at such periods only as he may think fit.

Sheriff to levy the costs of Prothonotary's order.—When the amount mentioned in the margin of the warrant is paid, the Sheriff shall also levy the amount of the costs of obtaining the Prothonotary and Senior Master's order for payment.

478. Sheriff to sell property of judgment-debtor and to credit sale proceeds to Government, if unclaimed for one year.—(l) Where there are goods of the judgment-debtor on the premises of which the Sheriff is directed to give vacant possession under a warrant of possession either under Order XXI, rules 35 and 36 or Order XXI, rules 95 & 96 of the Code of Civil Procedure, the Sheriff shall sell the same, but immediately thereafter and if possible prior thereto, he shall give public notice in the press as to the goods or the sale proceeds lying with him, if the value of the goods or the sale proceeds exceeds Rs.500 and where a sale has taken place, he shall hold the same till a claim is made. If no such claim is made within one

TOP

year from the date of the sale, the amount of the sale proceeds shall be credited to Government.

(2) In cases where the Sheriff is directed to sell movable property and has sold such portion of the property as is sufficient to satisfy the judgment debt, costs of execution, etc., he shall hand over the surplus property to the judgment-debtor if he be present or to his authorised agent. If the judgment-debtor is not present nor represented by an authorised agent, the Sheriff shall sell the same immediately and hold the sale proceeds of the surplus property till a claim is made. If no such claim is made within one year from the date of the sale, the amount of the sale proceeds shall be credited to Government.

479. Proclamation of sale in case of movable property.—In the case of sale of movable property, the Sheriff shall prepare the proclamation required by Order XXI, rule 66 of the Code of Civil Procedure and shall publish it or material extracts therefrom in such newspapers as he may deem proper. In cases where such publication is made in a newspaper which is not in the English language, the translation of the proclamation or the material extracts therefrom shall be made by the Official Translator.

480. Proclamation of sale in case of immovable property.—In the case of sale of immovable property, the Commissioner for Taking Accounts shall prepare the proclamation required by Order 21, rule 66 of the Code of Civil Procedure and shall forward it to the Sheriff On receipt of the proclamation of sale, the Sheriff shall publish it or material extracts therefrom in such newspapers as he may deem proper. In cases where such publication is made a newspaper which is not in the English language, the translation of the proclamation or the material extracts therefrom shall be made by the official translator.

481. Sale of movable property subject to certain conditions.— Every sale of movable property by the Sheriff shall be made subject to the following conditions:-

1) Terms cash.
2) Lots sold to be at the risk and expense of the purchaser from the time of sale, and to be removed by him with all faults and errors of description immediately after the sale.
3) Should any mistake be made in describing any articles, such mistakes shall not be held to vitiate or affect the sale of such articles in any way, it being understood that

TOP

intending purchasers shall satisfy themselves on all points before purchasing and no dispute shall be entertained after the sale.

482. Sale of immovable property subject to certain conditions.—Every sale of immovable property by the Sheriff shall be made subject to the following conditions:-

1) The highest bidder shall be the purchaser. If any dispute arises between two or more bidders, the property in dispute shall be put up again at the last undisputed bidding.

2) The person who shall be declared to be the purchaser shall deposit immediately twenty-five per cent of the amount of his bid, and in default, the property shall forthwith be again put up and sold. Such deposit shall be made in cash, unless the execution-creditor or his Advocate on record consents to receiving payment by cheque.

3) The balance of the purchase money, together with the amount of stamp-duty payable on the sale certificate to be issued by the Court, shall be paid by the purchaser before the closing of the Sheriff's office on the thirtieth day from the day of sale or if the thirtieth day be a Sunday or other close holiday, then on the first day on which the office shall be open after the thirtieth day and in default of payment of the said amounts within such period, the deposit may, if the Court thinks fit, after defraying the expenses of the sale be forfeited to the Government and the property shall be resold, and the defaulting purchaser shall forfeit all claim to the property or to any part of the sum for which it may subsequently be sold. If the proceeds of the re-sale be less than the price bid by such defaulting purchaser, the difference shall be leviable from him under the rules contained in Order XXI of the Code of Civil Procedure for the execution of a decree for money.

4) The sale shall not become absolute until the same has been confirmed by the Court.

5) If the sale be set aside by the Court, or if the judgment-debtor has no saleable interest whatever in any lot sold under these conditions, the purchaser shall be

TOP

entitled to receive back his purchase-money with or without interest as the Court may direct.

6) The right, title and interest only of the judgment-debtor in the above described property is sold by the Sheriff.

7) The sale is made under and subject to all other provisions contained in the Code of Civil Procedure relative to sales in execution of decrees.

483. Rules relating to arrest and attachment after judgment to apply to arrest and attachment before judgment.—The rules in this Chapter relating to arrest or attachment in execution of a decree or order shall, with any necessary modifications, apply to arrest or attachment before judgment.

484. Sheriff may give authority to Deputy Sheriff.—The Sheriff may authorise the Deputy Sheriff or any other person to execute the process of the Court. Any act done by the Deputy Sheriff or such other person pursuant to such authority shall be deemed to the act of the Sheriff.

485. Sheriff to include Deputy Sheriff, etc.—In these rules the term "Sheriff' shall include the Deputy Sheriff or other officer who may be appointed to execute the process of the Court.

486. Performance of Deputy Sheriff's duties during his absence.—During the temporary absence of the Deputy Sheriff, the Head Clerk may be authorised by the Sheriff by order in writing to perform the duties usually performed by the Deputy Sheriff.

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TOP

CHAPTER XXIX

OFFICE OF THE COMMISSIONER FOR TAKING ACCOUNTS

487. Copy of decree or order to be filed – Where a party to a suit or matter desires to take proceedings under any decree or order in the office of the Commissioner for Taking Accounts (hereinafter referred to as "the Commissioner"), he shall file in the office of the Commissioner a certified copy of the decree or order; provided that when the Court Receiver files his accounts in the office of the Commissioner for being passed, he may file a copy of the decree or order duly authenticated by him as a true copy.

488. Party filing copy of decree or order to apply for issue of notice – When a copy of any decree or order is filed in the office of the Commissioner, the party filing the same shall, unless otherwise directed by the Commissioner, apply for the issue of a notice for the purpose of taking into consideration the matter of the said decree or order and shall serve the notice on all necessary parties or on their Advocates on record.

489. Service of notice etc., on party concerned - Service of notice, Summons, order or other process upon any party concerned in such matter who is not represented by an Advocate shall be made in the manner provided by the Code of Civil Procedure for the Service of writ of summons in a suit, unless otherwise provided by these rules or unless the Commissioner otherwise directs.

490. Length of service. – Unless the Commissioner otherwise directs, every notice, summons or other process shall be served four clear days before the return thereof.

491. Manner of proceeding with the matter - At the time appointed for considering the matter of the said decree or order, the Commissioner shall proceed to regulate, as far as may be, the manner in which the matter is to be proceeded with and shall give such directions as may be necessary.

492. Directions for filing statements of accounts, objections and surcharges. - When a suit or matter is referred to the Commissioner for the purpose of taking an account the Commissioner shall give directions as to the party who shall file the statement of account and

TOP

the period of time within which he shall do so. He shall also direct the opposite parties to file their statements of objections and surcharges, if any, within a specified time.

Statements of accounts and of objections and surcharges shall be on oath or on solemn affirmation.

493. Procedure in default of filing statement of account – Where a party who has been directed to file a statement of account has made default in filing such account, the Commissioner may debar him from taking any further part in the proceedings before him and may proceed with the hearing of the reference or he may direct any other party to file a statement of account or he may remove the reference from his file or make such other order as he thinks fit.

Where the Commissioner has directed any other party to file a statement of account, he may debar the party in default from being heard on the statement of account filed by such other party.

494. Just allowance to be made – In taking an account directed by a decree or order, all just allowance shall be made without any direction to that effect in such decree or order.

495. Commissioner may remove matter from the file on default of appearance – If the party who gets a notice or other process issued does not appear on the day fixed for the haring of the reference or matter or on any other day to which the hearing may be adjourned, the Commissioner may adjourn the hearing or remove the reference or matter from his file or pass such other order as he may in the circumstances deem fit. When the Commissioner makes an order for removal, he shall certify the Prothonotary and Senior Master that the reference or matter has not been prosecuted and that it has been removed from his file.

496. Commissioner may proceed *ex-parte* - If any party concerned in any reference or matter who shall have been duly served with notice does not appear on the day fixed for the hearing of the notice or on any other day to which the hearing may be adjourned, the Commissioner shall be at liberty to proceed *ex-parte* as regards such party.

497. Commissioner may award costs of adjournment or costs of removal of matter. – When the Commissioner grant an adjournment or makes an order for removal of a reference

TOP

or matter from the file, he may make such order as to costs as he may deem just. The costs shall be quantified by the Commissioner. The order for costs shall be executed as if it were an order of the Court. The party desiring to enforce the order for costs shall file a certified copy thereof in the Office of the Prothonotary and Senior Master and apply for execution. Execution shall then issue as in the case of an order of the Court.

498. When reference or matter not prosecuted, Commissioner may remove same from file – In any case in which no effective proceedings have been taken in the office of the Commissioner for a periods of three months in any reference or matter pending before him, the Commissioner may, after giving notice to the parties who have appear before him, remove the reference or matter from his file and certify to the Prothonotary and Senior Master that the reference or matter has not been prosecuted and that it has been removed from his file. Notice to a party who has appeared in person shall be given by sending the notice to him by post under certificate of posting.

499. Reference or matter not to be restored without order – When a reference or matter is removed from the file of the Commissioner it shall not be restored to his file without an order of the Court or the Judge in Chambers.

500. Procedure on refusal or neglect of a party to do some act required to be done. – (i) Where a party to a suit or proceeding has refused or neglected to do any act which he has been directed by the Commissioner to do, the Commissioner may refuse to hear him and may debar him from taking any further part in the proceedings before him. Where it is not expedient or practicable for the Commissioner to precede with the reference or matter by reason of such refusal or neglect, the Commissioner may remove the reference or matter from his file and certify the fact to the Prothonotary and Senior Master, giving reasons for the removal.

(ii) Any party concerted may then apply by Chamber Summons for an order that the party in default do the required act within a specified time. The Judge may thereupon make such order as to him may deem just.

(iii) If the Judge directs the party in default to do the required ac within a specified time and if the said party fails to do the act within such time, any party concerned may apply

TOP

by Chamber Summons that action be taken against the party in default for disobedience of the Court's Order. On the hearing of such summons, the Judge may order that the property of the person guilty of such disobedience be attached and may also order such person to be detained in civil prison for a term not exceeding six month (unless in the meantime the Judge directs his release), or may make such order relating to the suit or proceeding as the Judge may think fit.

(iv) No attachment under this rule shall remain in force for more than one year, at the end of which time, if the disobedience continues, the property attached may be sold an doubt of the sale proceeds the Judge may order such compensation to be paid to any party affected as he thinks fit and as to the balance, if any, the Judge shall pass an order that it be paid to the party entitled thereto.

501. Commissioner may obtain process for attendance or for production of documents – The Commissioner shall be at liberty in all matters referred to him to obtain the process of the Court to compel the attendance of witness or the production of any document which he may desire to inspect, and to examine such witnesses, on oath or solemn affirmation touching the matters referred to him as he may think proper.

502. Unofficial translation of exhibit may be furnished to Commissioner – An Advocate on record shall be at liberty to furnish to the Commissioner an unofficial translation of any exhibit put in before him. Should the correctness of such unofficial translation be challenged, the Commissioner may, on reference to the interpreter in attendance, decide the point and amend the translation if necessary, or may require the document or any portion of it to be officially translated.

503. Registered Clerks of Advocated on written authority may be permitted to appear before Commissioner – Registered Clerks of Advocates may, on the written authority of their employers, appear and act for their employers in any suit or matter before the Commissioner for which such authority is given, but the Commissioner may require the attendance of the Advocate on record whenever he thinks fit. The Commissioner shall have power, subject to an appeal to the Judge in Chambers, to exclude from the aforesaid privilege any clerk whom he may consider incompetent or to have abused such privilege.

TOP

504. Appearance on a claim made against the estate of a deceased person – In any suit or matter for the administration of the estate of a deceased person, where a claim is made against the estate of the de ceased by a person not a party to the suit or matter, no party other than the executor or administrator shall, unless by leave of the Commissioner, be entitled to appear, except at his own risk as to his costs and the costs, occasioned by his appearance, of other parties entitled to appear and appearing, unless the Commissioner otherwise directs.

505. Commissioner may make interim report – The Commissioner may, *suo motu* or upon the application of a party, makes an interim report concerning any matter or thing arising in or about the matter referred to him in order that the directions of the Court may be obtained thereon. Such interim report shall be brought before the court by such party as the Commissioner shall direct. The party so directed shall apply by Chamber Summons for the necessary directions and shall serve the summons on all parties concerned. The Judge may give such directions or pass such orders on the report as to him may seem just

506. Commissioner to report if unable to make report in time – If the Commissioner is unable to make his final report within the period fixed by the decree or order or where no time is fixed, within one year from the filing of the certified copy of the decree or order in the Commissioner's Office, he shall make a report setting out the reasons why the matter could not be completed within such period. The Prothonotary and Senior Master shall place such report before the Judge in Chambers for such orders as the Judge may deem fit. The Prothonotary and Senior Master shall notify on his notice board the date on which the report is to be placed before the Judge in Chambers and he shall do so at least eight days before such date. If a party has appeared in person, the Prothonotary and Senior Master shall give notice of the date to such party by sending a letter to him by post under certificate of posting.

507. Report of Commissioner binding on parties unless discharged or varied – When the Commissioner has made his final report pursuant to any decree or order of the Court, he shall inform the parties who have appeared before him of the same and shall then forward it to the Prothonotary and Senior Master for being filed. The report shall be binding on all parties to the proceedings, unless the same is discharged or varied as hereinafter provided.

508. Exceptions to Commissioner's report and their hearing – Any party desiring such report to be discharged or varied shall within twenty days from the filing thereof in the office

TOP

of the Prothonotary and Senior Master file his exceptions thereto and serves a copy o0f the same on the other parties to the suit or matter. After the exceptions have been filed as aforesaid, the suit or matter shall be set down for hearing on such exceptions. If any party after having filed exceptions abandons or does not proceed with them, any other party in the same interest shall be at liberty to proceed with such exceptions.

The Judge in Chambers may for sufficient cause allow exceptions to be filed within such time after the expiry of twenty days as he may think fit.

509. Setting down of suit for hearing on exceptions to Commissioner's report - Unless otherwise ordered, the suit or matter shall be set down on board for hearing on exceptions to the Commissioner's report and for further directions fourteen days after the exceptions are filed. The Prothonotary and Senior Master shall notify on his notice board the date on which the suit or mater is to be so set down and he shall do so at least eight days before such date. If a party has appeared in person, the Prothonotary and Senior Master shall give notice of the date to such party by sending a letter to him by post under certificate of posting.

The suit or matter shall be set down for hearing on the exceptions before the Judge who made the order or reference if he is available and sitting on the Original Side, and if not, before any other Judge sitting on the Original Side. The suit or matter shall be placed high on the daily board.

510. Confirmation of Commissioner's report, when exceptions not filed – When no exceptions have been filed to vary or discharge a report within the prescribed time the Prothonotary and Senior Master shall, at the request of any party to the proceedings, certify such fact on the report; and such certificate shall appear on such report before the suit or matter is placed on board for confirmation of the Commissioner's Report and for further directions.

511. Procedure when no application made for confirmation. – If in a suit or matter referred to the Commissioner, no application is made for confirmation of the Commissioner's report within two months from the date on which the same is filed in the office of the Prothonotary and Senior Master, the suit or matter shall be set down on board for directions. The Prothonotary and Senior Master shall notify on his notice board the date on which the

TOP

suit or matter is to be so set down and he shall do so at least eight days before such date. If a party has appeared in person, the Prothonotary and Senior Master shall given notice of the date to such party by sending a letter to him by post under certificate of posting.

The suit or matter shall be set down for directions before the Judge who made the order of reference if he is available and sitting on the Original Side, and if no, before any other Judge sitting on the Original Side. The suit or matter shall be place high on the daily board.

512. Procedure when Receiver fails to file account, etc. – Where a receiver neglects to file his account as provided in rule 594 or to get it passed, the Commissioner may require the receiver and the parties or any of them to attend the office of the Commissioner to show cause why such account has not been filed or if filed, why the passing thereof has not been proceeded with and thereupon the Commissioner may give such directions as to him may seem proper.

If the Commissioner does not see fit to require the receiver or the parties to attend as aforesaid, or if he shall not be satisfied with the explanations offered to him, the Commissioner shall make a report in the matter and after informing the receive and the parties transmit it to the Prothonotary and Senior Master. The Prothonotary and Senior Master shall place such report before the Judge in Chambers. The Prothonotary and Senior Master shall notify on his notice board the date on which the report is to be placed before the Judge in Chambers and he shall do so at least eight days before such date. If a party has appeared in person, the Prothonotary and Senior Master shall give notice of posting. The Judge may pass such order on the report as to him may seem just.

513. Upon Account being filed notice to proceed, etc., to issue. - Upon a receiver's account being filed in the office of the Commissioner for being passed, a notice to proceed thereon and other necessary notices shall be got issued by the receiver.

514. Commissioner's certificate to be binding on parties unless discharge or varied. – When the Commissioner has completed the examination of an account filed by a receiver, he shall issue a certificate stating the result of such examination. He shall inform the parties who have appeared before him of the issue of the certificate and shall then forward it to the

TOP

Prothonotary and Senior Master for being filed. The certificate shall be binding on all parties to the proceedings unless the same is discharged or varied as hereinafter provided.

515. Party dissatisfied with certificate to apply by chamber summons. – Any party desiring such certificate to be discharged or varied shall within twenty days from the filling thereof in the office of the Prothonotary and Senior Master apply by Chamber Summons for such order.

The Judge in Chambers may for sufficient cause allow such application to be made within such time after the expiry of twenty days as he may think fit.

Sale of Property

516. Copy of decree or order for sale to be filed. – A certified copy of every decree or order for the sale of property by the Commissioner shall be filed in the office of the Commissioner.

517. Sale to be conducted by the Commissioner – Unless otherwise ordered, every such sale shall be conducted by the commissioner or under his direction by his representative, and shall be made by public auction; except that if the property to be sold shall consist of negotiable securities; or of share in any public company or corporation, the Commissioner shall be at liberty to sell the same through a broker at the market rate of the day.

518. Sale to be to the highest bidder offering a sufficient sum. – Every such sale shall be to the highest bidder, provided that if the Commissioner is of opinion that a sufficient sum has not been offered, he may postpone the sale.

519. Carriage of proceedings. – When mortgaged property is to be sold, the mortgagees or the first mortgagee, and in other cases the plaintiff or the party having the carriage of the general proceedings, shall have the carriage of the proceedings relating to the sale; but the Court or the Judge in Chambers may, when necessary, commit the carriage of such proceedings to any other party.

TOP

520. Document of title to be left with the Commissioner and to be subject to his directions - All documents of title relating to the property to be sold in the possession or power of any of the parties shall be produced before and left with the Commissioner, and shall be subject to his directions both a to their custody pending the sale and their ultimate destination, such directions being subject to appeal to the Judge in Chambers.

521. Conditions of Sale – Every such sale shall be regulated by conditions in writing. The conditions of sale shall as few and simple as may be compatible with the nature of the property to be sold. If a reserved bid is fixed, the fact of a reserved bid having been fixed, but not the amount, shall be stated in the conditions.

When immovable property is to be sold, the conditions shall be adapted to the state of the title to such property. When immovable property is to be sold in lot, and the same monuments of title relate to more than one lot, or when the same monuments of title relate to several properties, provision shall be made in the conditions of sale for the destination of the original monuments and for the production and furnishing of copies thereof.

The conditions of sale shall be in Form No. 68 or Form No. 69 as the case may be, with such variations as the circumstances of each case may require.

522. Proclamation, notification and conditions of sale and abstract of title by whom to be prepared. – The proclamation, notification and conditions of sale and an abstract of title when immovable property is to be sold shall be prepared by the Advocate on record for the party having the carriage of the proceedings.

523. Settlement of proclamation, notification, etc., - Draft of the proclamation, notification, conditions of sale and abstract of title shall be lodged with the Commissioner, and he shall be requested to fix a date for settling the same. Notice of such date shall be served on all parties entitled to appear. On the said date or on any other date or on any other date to which the matter may be adjourned, the proclamation, notification, conditions of sale and abstract of title shall be settled. The Commissioner shall then fix the date, time and place of the sale, and the time for delivery of the abstract of title and of objections to and requisitions on the title.

TOP

524. Copies of proclamation, notification, etc., to be filed. – On the proclamation, notification, conditions of sale and abstract of title being settled, fair copies thereof shall be filed in the office of the Commissioner.

525. Notification of the sale. – The notification shall specify the time and place of sale and shall contain a description and particulars of the property, together with a statement that the property is to be sold pursuant to a decree or order of the Court by the Commissioner, who shall have the right to postpone the sale if an adequate price is not offered. If the property is to be sold by lost, the notification shall also contain a statement of the manner in which it is proposed to divide the property into lots for the purpose of the sale. When the property or any portion of it is to be sold subject to an encumbrance, the nature and the amount of such encumbrance shall as far as practicable, be also stated.

526. Proclamation of sale and mode of notifying sale – (1) The Commissioner shall cause a proclamation to be made of every intended sale by public auction under this Chapter.

(2) The proclamation of sale shall contain the particulars specified in Order XXI, rule 66(2) of the Code of Civil Procedure, so far as they may be application. The proclamation shall contain every fact which the Commissioner considers material for a purchaser to know in order to judge the nature and value of the property.

(3) The proclamation of sale together with a copy of the particulars and conditions of sale shall be affixed on a conspicuous part of the Court house and on the notice board of the office of the Commissioner. Where immovable property is to be sold, the proclamation of sale together with a copy of the particulars and conditions of sale shall also be affixed on a conspicuous part of the property to be sold and on the notice board of the office of the Collector of the district in which the property may be situate and where the property is situate within cantonment limits, on the notice board of the Local Cantonment. Board and the Military Estates Officer concerned.

(4) A notification of every sale shall be published in such newspapers and as often as the Commissioner may direct, having regard to the nature and value of the property to be sold. The notification shall be as concise as possible, taking into account all the circumstances of the cases.

TOP

527. Reserved bid. – Unless otherwise ordered or agreed to by the parties, the Commissioner shall fix a reserved bid before putting up a property for sale.

528. Valuation by approved valuer. – For the purpose of fixing a reserved bid, the Commissioner may, on notice to the parties, direct a valuation, or a survey and valuation, to be made of the property to be sold. The same shall be made by an architect or a surveyor or other competent person to be appointed by the Commissioner in rotation as far as possible, having regard to the nature and value of the property to be sold out of the list of architects and surveyors or competent persons approved by the Chief Justice and such architect or surveyor or other competent person shall certify the result under his signature, and shall deliver to transmit such certificate to the Commissioner under a sealed cover with the words on the cover "Private and to be opened only by the Commissioner". The Commissioner may, if he shall think fit, require the certificate to be varied by an affidavit of the valuer. In that case the certificate shall be referred to in the affidavit without being annexed thereto or filed therewith. The affidavit shall be so prepared as not to disclose the contents of the certificate. On the reserved bid being fixed, the certificate shall be put in a sealed cover and kept in a safe by the Commissioner.

529. Reserved bid not be divulged. - Unless otherwise ordered, the reserved bid shall not be divulged to any person either before, at or after the sale.

530. Copy of proclamation, notification and conditions of sale with translation to be posted up – A Copy of the proclamation, notification and conditions of sale, with such transitions thereof as the Commissioner may direct, shall be posted upon the notice board of the Commissioner's office on the day of the sale and for one week previous thereto.

531. When conditions of sale to be published and hand bills distributed. – In any case in which it may be deemed desirable, and the value of the property to be sold shall admit of it, the Commissioner may cause the conditions of sale or any part thereof to be published with the notification mentioned in Rule 526 and may also, with a view to give greater publicity to the sale, cause hand-bills to be prepared and distributed.

532. Postponement of sale – The Commissioner may postpone a sale, if he is unable to attend on the day appointed for the sale, or if the offices of the Court are closed on the day of

TOP

the sale under the order of the Chief Justice, or with the consent of the parties, or for other sufficient cause. The costs of a postponement rendered necessary by the Commissioner's absence or by the offices of the Court being closed shall be costs in the sale. The costs of a postponement on any other ground shall be in the discretion of the Commissioner.

When a sale in postponed the proceedings down to the certificate of sale shall be similar to shoes on an original sale, save as provided in the next succeeding rule.

533. Notice of postponement of sale to be given in newspapers - When a sale has been advertised in newspapers and is postponed for any reason, the Commissioner shall give a short notice of such postponement in the said newspapers and shall dispense with fresh notification of the sale.

534. When sale postponed, a new day to be fixed - When a sale is postponed, the commissioner shall be at liberty to appoint a new day for the sale of the property, and, on the notice to the parties, to make any necessary alterations in the notification and conditions of sale.

535. Advocate of party having carriage of proceedings to be present at the sale. – The Advocate on record for the party having the carriage of the proceedings, or the Advocate's registered clerks, shall be present at the sale.

536. Proclamation, notification and conditions of sale to be read out before sale. - At the time and place appointed for the sale, the proclamation, notification and conditions of sale, and the translations thereof, shall be read out preparatory to the property being put up for sale.

537. Bids to be entered in the Commissioner's note-book – The Account of each bid shall be entered I the Commissioner's note-book

538. Postponement of sale for want of sufficient bid – If there be no bid or the highest bid be below the reserved bid (if any) or be deemed insufficient by the Commissioner, he shall postpone the sale and record the reason for such postponement in his note-book.

TOP

539. When property sold, from of entry to be made in the Commissioner's note-book – If the highest bid be equal to or higher than the reserved bid (if any) and be deemed sufficient by the Commissioner, he shall, subject to the provisions of rule 546(i) and rule 547 (i) (a) and (i)(c) make an entry in his note-book to the following effect:-

"I declare; A.B. to be the purchaser of the property comprised in lot …… for the sum of Rs. ……..".

540. Result of sale to be entered in bidding paper – The result of the sale shall also be set forth in a paper to be called "the Binding Paper", with particulars showing the lots which have been sold, and for what price, and the lots which have not been sold, and stating the names of the purchaser, and what sums have been received as deposits and the balance remaining due in respect of each purchase. If there be no bid for any lot, the words "no binding" shall be written in the bidding paper opposite the number of the lot. If the highest bid be deemed insufficient, the words "not sold" shall be written opposite the number of the lot. If the property be sold, the highest bid shall be inserted opposite the number of the lot, and the purchaser shall write his full name and subscribe his signature opposite such entry, and shall add his address and occupation. All notice thereafter served at the address so given shall be deemed to have been duly served. The bidding paper shall be in Form No. 70.

541. Agent of purchaser to sign Bidding paper as such – A person purchasing as agent for another shall sign the bidding paper as such, giving the full name, address and occupation both of himself and his principal. All notices thereafter served at either of the addresses so given shall be deemed to have been duly served.

542. Proceedings on a re-sale - When a re-sale is directed, unless otherwise ordered, a fresh notification shall be issued an d published and the proceedings down to the certificate of sale shall be similar to those on an original sale.

543. Leave to bid and to set-off – No party to a suit shall, without the leave of the Court or the Judge in Chamber, bid for or purchase any property directed to be sold by the Commissioner under a decree or order in the suit. Such leave if not contained in the decree or order directing the sale may be obtained on an application by Chamber Summons. The

TOP

costs of a separate application, unless otherwise ordered, shall be borne and paid by the applicant.

At the time of granting leave to any party to bid for and purchase the property the Court shall grant him leave to set off his claim in the suit against the purchase-money.

544. Leave to mortgagee to bid and set-off – (i) Where leave to bid and to set-off is granted to a mortgagee of the property, the Court may order that he shall not bid at the sale for an amount less than what he is entitled to set-off; and where the property is to be sold in separate lots, the bid shall not be less in respect of each lot than such figure shall appear to the properly attributable to it in relation to the said amount.

(ii) Where leave is granted to such mortgagee to set-off his claim against the purchase-money, he shall be entitled to set-off the amount payable under the decree for principal. Interest and costs of the suit and such costs, charges and expenses in respect of the mortgage security as have been properly incurred by him subsequent to the preliminary decree. The costs of the suit and the costs, charges and expenses incurred subsequent to the preliminary decree, if not taxed, shall be estimated and ascertained in a summary manner by the Commissioner for the purpose of giving effect to the set-off.

545. Application of incumbrancer to be made a party to the suit or to join in the sale – An encumbrance, not a party to the suit, may, at any time before the sale, apply by Notice of Motion to be made a party or for leave to join in the sale; and such order shall be made thereon, and in protection of his rights and as to costs as to the Court may seem fit.

546. Sale of movable property -(i) When movable property is sold, unless otherwise ordered by the Commissioner or agreed to by the parties, the whole of the purchase-money, or so much thereof as may be payable after giving credit for any set-off to which the purchaser may be entitled, shall be paid to the Commissioner at the time of the sale. Upon such payment being made, the sale shall become absolute and the purchaser shall be entitled to obtain delivery of the property in like manner as the purchaser of movable property sold in execution under the provision of the Code of Civil Procedure.

TOP

(ii) A mortgagee who has obtained leave to bid and to set-off shall, four days before the date of the sale, file with the Commissioner a statement giving particulars of the amount he would claim by way of set-off against the purchase-money in case he is declared the purchaser.

(iii) The Commissioner shall estimate in a summary manner the amount which such mortgagee is entitled to set-off, taking into account the principal amount, interest, costs of the suit, further interest up to the date of the sale and further costs. Charges and expenses in respect of the property, as may have been ordered by the Court or the Judge in Chambers.

(iv) The mortgagee who is allowed a set-off shall give an undertaking to the Commissioner that if the amount he is entitled to set-off is found, after the taxation of all his costs, to be less than the amount estimated by the Commissioner, he would, if called upon by the Commissioner, fourth with deposit with the Commissioner such amount as the Commissioner may require him to deposit, having regard to the facts of the particular case.

(v) In cases where the amount of the purchase money exceeds the estimated amount of set-off, and where the amount claimed by the mortgagee as set-off, and where the amount claimed by the mortgagee as set-off is more than the amount estimated by the Commissioner, the Commissioner may retain with him for a period of six months, out of the purchase-money, such amount as he, in his discretion, considers necessary to provide for the excess amount claimed by the mortgagee as set-off over the estimated amount of set-off.

If within the said period of six months the costs of the mortgagee have been taxed and the amount which the mortgagee is entitled to set-of has been ascertained and is found to be more than the amount which has been allowed by the Commissioner to be set-off, the Commissioner shall pay to the mortgagee the difference between the said two amounts upto the extent of the amount retained by him and the balance, if any, shall be paid by the Commissioner to the parties entitled thereto. If the mortgagee's costs have not been taxed for a period of six months from the date of the sale, the Commissioner shall pay the amount retained by him to the parties, entitled thereto, unless otherwise ordered by the Judge in chambers.

TOP

(vi) In default of payment of the purchase-money as provided for in sub-rule (i), the property shall forthwith be resold and the defaulting purchaser shall forfeit claim to the property, and except where the defaulting purchaser is the mortgagee, he shall also forfeit all claim to any part of the sum for which it may subsequently be sold.

(vii) Any deficiency of price which may arise on re-sale by reason of the purchaser's default and all costs and expenses occasioned by such re-sale shall, at the instance of any party concerned, be recoverable from the defaulting purchaser under an order to be obtained on a Chamber Summons, which shall be served on the defaulting purchaser and the parties to the suit. The Judge may direct the defaulting purchaser to pay interest at such rate from the date of default and on such amount as to the Judge may seem just.

(viii) Where there are more mortgagees than one and leave to bid and to set-off has been granted to all the mortgagees and one of the puisne mortgagees becomes the purchaser, the Commissioner shall follow such directions regarding the sale and the purchase money as may have been given by the Court or the Judge in Chambers at the time of granting the leave to bid and to set-off.

547. Sale of immovable property.-(i) (a) When immovable property is sold, unless otherwise ordered by the Court or the Judge in Chambers or unless the case falls within clause (b) or clause (c) of this sub-rule, twenty-five per cent of the purchase money shall be deposited with the Commissioner at the time of the sale by the person who is declared the purchaser.

(b) Where the mortgagee of an immovable property which is sold has obtained leave to bid and to set-off his claim against the purchase money and has been declared the purchaser, he shall not be required to make any deposit if the amount of the purchase-money is equal to or less than the amount he is entitled to set-off.

(c) Where the amount of the purchase-money is more than the amount which the purchaser is entitled to set-off, he shall deposit twenty-five per cent of the excess of the purchase money over the amount he is entitled to set-off.

(ii) The balance of the purchase-money, or so much thereof as may be payable after giving credit for any set-off to which the purchaser may be entitled, and the amount of stamp-

TOP

duty payable on the conveyance to be executed or on the sale certificate to be issued, shall, unless otherwise ordered by the Court or the Judge in Chambers, be paid by the purchaser to the Commissioner within thirty days from the date of the sale.

The Judge in Chambers may, for sufficient cause, extend the time for payment on such conditions as to payment of interest or otherwise as the Judge may think fit.

(iii) A mortgagee who has obtained leave to bid and to set-off shall, four days before the date of the sale, file with the Commissioner a statement giving particulars of the amount he would claim by way of set-off against the purchase-money in case he is declared the purchaser.

(iv) The Commissioner shall estimate in a summary manner the amount which the mortgagee is entitled to set-off, taking into account the principal amount, interest, costs of the suit, further interest upto the date of the sale and further costs, charges and expenses in respect of the mortgage security as may have been properly incurred by the mortgagee subsequent to the preliminary decree.

(v) The mortgagee who is allowed a set –off shall give an undertaking to the Commissioner that if the amount he is entitled to set-off is found, after the taxation of all his costs, to be less than the amount estimated by the Commissioner, he would, if called upon by the Commissioner, forthwith deposit with the Commissioner such amount as the Commissioner may require him to deposit, having regard to the facts of the particular case.

(vi) In cases where the amount of the purchase money exceeds the estimated amount of set-off, and where the amount claimed by the mortgagee as set-off is more than the amount estimated by the Commissioner, the Commissioner may retain with him for a period of six months, out of the purchase money, such amount as he, in his discretion, considers necessary to provide for the excess amount claimed by the mortgagee as set-off over the estimated amount of set-off.

If within the said period of six months the costs of the mortgagee have been taxed and the amount which the mortgagee is entitled to set-off has been ascertained and is found to be more than the amount which has been allowed by the Commissioner to be set-off, the

TOP

Commissioner shall pay to the mortgagee the difference between the said two amounts upto the extent of the amount retained by him and the balance, if any, shall be paid by the Commissioner to the parties entitled thereto. If the mortgagee's costs have not been taxed for a period of six months from the date of the sale, the Commissioner shall pay the amount retained by him to the parties, entitled thereto, unless otherwise ordered by the Judge in Chambers.

(vii) In default of payment of the deposit required to be made under sub-rule (i), the property shall forthwith be resold.

(viii) In default of payment of the amounts required to be paid under sub-rule (ii) within the time provided therein, the deposit made by the purchaser under sub-rule (i) or any part thereof may, if the Judge in Chambers thinks fit, after defraying the expenses of the sale, be forfeited to the Government, and the property shall be resold and the defaulting purchaser shall forfeit all claim to the property, and except where the defaulting purchaser is the mortgagee, he shall also forfeit all claim to any part of the sum for which the property may subsequently be sold.

Where the amount of the purchase money is more the amount which the defaulting purchaser was allowed to set-off, the Judge in Chambers may, if he thinks fit, order such defaulting purchaser to pay to the Government an amount not exceeding twenty-five percent of the amount allowed to be set-off, an in cases where the amount of the purchase money is less than or equal to the amount which the defaulting purchaser was allowed to set-off, the Judge may, if he thinks fit, order such purchaser to pay to the Government an amount not exceeding twenty-five per cent of the purchase money.

The Prothonotary and Senior Master shall forward a copy of any order made under this sub-rule to the Government Pleader (Original Side)

Government shall be entitled to execute an order made under this sub-rule in the same manner as a decree for payment of money.

(ix) Any deficiency of price which may arise on a resale by reason of the purchaser's default and all costs and expenses occasioned by such re-sale shall, at the instance of any

TOP

party concerned, be recoverable from the defaulting purchaser under an order to be obtained on a Chamber Summons which shall be served on the defaulting purchaser and the parties to the suit. The Judge may direct the defaulting purchaser and the parties to the suit. The Judge may direct the defaulting purchaser to pay interest at such rate form the date of default and on such amount as to the Judge may seem just.

(x) Where there are more mortgagees than one and leave to bid and to set-off has been granted to all the mortgagees and one of the puisne mortgagees becomes the purchaser, the Commissioner shall follow such directions regarding the sale and the purchase money as may have been given by the Court or the Judge in Chambers at the time of granting the leave to bid and to set-off.

548. Application to compel delivery of abstract – If the abstract of title be not delivered to the purchaser within the time specified in the conditions of sale, the purchaser may apply by Chamber Summons for an order requiring the party having the carriage of the proceedings of deliver the abstract within a specified time. The Judge in Chambers may make such order thereon as to him may seem just.

549. Questions arising out of objections or requisitions – Any disputed questions arising out of objections or requisitions by a purchaser may be brought by either party before the Commissioner, who shall certify his opinion, and shall also certify by whom the costs ought to be paid.

550. Determination of the question whether a good title has been made out - When important question of title are in dispute, either party may apply by Chamber Summons to the Judge in Chambers for determination of the question, whether a good title has been made out. The Judge may, before deciding the question, refer the matter to the Commissioner for inquiring into any question of fact.

551. Costs of inquiry – If the title be found to be good on grounds not appearing on the abstract the purchaser, unless otherwise ordered, shall be entitled to his costs of the inquiry. If the title be found to be good on grounds appearing on the abstract, the purchaser, unless his objections have been frivolous or vexatious or unless otherwise ordered, shall not be liable to pay more than his own costs of the inquiry.

TOP

552. Application by purchaser for leave to pay purchase-money into Court – After a sale has been made the purchaser may, if prepared to accept the title, at once pay the balance of the purchase money and the amount of stamp duty into Court to the credit of the suit, or he may, if not prepared to accept the title, apply for leave to pay the purchase money and the amount of stamp duty into Court, without prejudice to any question as to the title to the property. Such application shall be made by Chamber summons addressed to the party having the carriage of the proceedings and also to the party whose property has been sold. The Judge may impose on the purchaser such terms as he may deem just as to the purchaser paying interest upon the purchase money or waiving his right to the rents upto the time when the question as to the title is determined, in the event of a good title being made to the property.

553. Application by any other party against defaulting purchaser - Any party interested may apply by Chamber summons for such order as it may be necessary to obtain for the purpose of compelling a purchaser, who has neglected to pay the purchase-money or the amount of stamp duty or both in due time, to comply with the conditions of sale. Such order may be made subject to the right (if any) of the purchaser to obtain an inquiry as to whether a good title has been made out.

554. Direction for investment of purchase-money – When an application is made to confirm the sale or when an application is made under either of the last two preceding rules for payment of the purchase-money of the amount of stamp duty or both into Court, the purchaser or the party having the carriage of the proceedings may at the same time obtain direction for investment of the purchase-money.

Any subsequent application for that purpose shall be by Chamber Summons, and, unless otherwise ordered, at the expense of the applicant.

555. Investment of purchase-money – The purchase-money, when paid into Court, shall be invested by the Commissioner in fixed deposit with any one of the banks specified in column 2 of the first Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, for a period of thirty-one days and the Commissioner shall thereafter renew the said deposit for similar periods of thirty-one days until the purchase money is ordered by the

TOP

Court or the Judge in Chambers to be paid out. Any interest that may have accrued shall be paid to such parties as the Court or the Judge in Chambers may direct.

556. Purchaser when deemed to have accepted the title – A purchase of immovable property or of any right, title and interest in such property, who pays the purchase-money and the amount of stamp-duty into Court without reserving his right to object to the title, or who enters into possession, shall be deemed to have accepted the title.

557. Purchase-money not to be paid out without an order – The purchase-money paid into Court shall not be paid out or otherwise disposed of without an order of the Court or the Judge in Chambers, except in the case of ground rent and municipal taxes due in respect of the property sold.

558. If sale set aside, purchaser entitled to receive back his deposit, purchase-money and amount of stamp-duty with costs – When a sale of immovable property is set aside, the purchaser, unless precluded by the conditions of sale or unless otherwise ordered, shall be entitled to receive back his deposit or purchase-money and the amount paid for stamp-duty and to be paid his costs, charges and expenses occasioned by his bidding for an being declared the purchaser of the property and of and incidental of the application to set aside the sale. If there be a fund in Court standing to the Credit of the cause, the purchaser's taxed costs, charges and expenses may be ordered to be paid out of it, but if there be no such fund, the costs, charges and expenses may be ordered to be paid by the party having the carriage of the proceedings or otherwise as the Judge may be think fit, without prejudice to the question by whom such costs, charges and expenses shall be ultimately born and paid.

559. Bidding not to be re-opened – No bidding shall be re-opened, unless sit be shown that there has been fraud or misconduct or material irregularity in the management of the sale or that the purchaser, by reason of being in a fiduciary position, was disqualified from purchasing.

560. Result of sale to be certified – The Commissioner shall as soon as possible after the sale issue a certificate certifying the result of the sale. In the said certificate he shall state whether the purchaser has paid into his office the full amount of the purchase-money and the amount of stamp-duty payable on the conveyance to be executed or on the sale certificate to

TOP

be issued. The party having the carriage of the proceedings shall file the certificate and apply for an order confirming the sale. In case of his not doing so, the purchaser of the property shall be at liberty to apply for such order, and shall be entitled to recover the costs of the application out of the purchase-money.

561. Sale to be confirmed by the Court – No sale of immovable property made under this Chapter shall become absolute, until it has been confirmed by the Court.

562. Certificate of Commissioner and of Prothonotary and Senior Master to be produced for confirmation of sale - On every application for confirmation of sale, there shall be produced a certificate of sale from the Commissioner and also a certificate of the Prothonotary and Senior Master certifying that no application has been made to set aside the said sale. The application for confirmation shall be made *ex-parte* to the Judge in Chambers; but the Judge may direct notice of the application to be given to any party.

563. Possession of immovable property – Unless otherwise ordered, the purchaser shall not be entitled to possession of the property purchased by him until the sale is confirmed. On confirmation of the sale, the purchaser shall be entitled to obtain possession of the property in like manner as the purchaser of immovable property sold in execution under the provision of the Code of Civil Procedure

564. Possession of movable property. Transfer of securities and shares - On the purchase money of movable property being paid, the purchaser unless otherwise provided for in the condition of sale, shall be entitled to obtain immediate possession thereof, and if such property shall consist of negotiable securities or of any shares in any public company or corporation, to have the same duly transferred to him.

565. Conveyance – On the purchase-money of immovable property and the amount of stamp-duty being paid and the sale confirmed, the purchaser shall be entitled to a proper conveyance, in which all necessary parties shall join as the Commissioner shall direct.

566. Purchaser to prepare conveyance – Unless otherwise ordered, the conveyance shall be prepared by and at the expense of the purchaser and shall be sent for approval to the

TOP

Advocate on record for the party having the carriage of the proceedings, who shall return it within two weeks with his remarks, if any.

567. Failure to return draft conveyance – If the draft conveyance is not returned within two weeks, the purchaser shall lodge a copy of the same in the office of the Commissioner for being settled by the Commissioner.

568. Conveyance to be settled by the Commissioner. – Subject to appeal to the Judge in Chambers, every conveyance shall be settled by the Commissioner if the parties differ about the same or if any of them be under any legal disability of if the Advocate on record for the party having the carriage of the proceedings fails to return it to the purchaser within two weeks.

569. Certificate of Approval – When a conveyance is settled by the Commissioner a certificate of approval shall be issue by him or endorsed by him upon such conveyance.

570. Proceedings to procure execution of conveyance – If any person certified by the Commissioner to be a necessary party to a conveyance be a minor or otherwise under disability, or being *sui juris* shall neglect or refuse to execute the conveyance, an application may be made to the Judge in Chambers for an order appointing the Commissioner, in the case of a person under disability, to convey the property and to execute the conveyance for him and in his name, and in other cases directing the person in default to execute the conveyance within a time to be fixed by the order and in default thereof appointing the Commissioner to convey the property and execute the conveyance for him and in his name. The application shall be by Chamber Summons and shall be supported by affidavit and it shall be shown that the person required to execute the conveyance was certified by the Commissioner to be a necessary party and that the conveyance had been approved by such party or by the Commissioner. Unless otherwise ordered, the costs of such application, in the case of a person under disability shall be part of the costs of the sale, and in other cases shall be borne and paid by the defaulting party.

571. Substitution of name – The name of a principal or sub-purchaser shall not be substituted for that of the person certified to be the purchaser without an order to be applied for on Chamber Summons. The application shall be supported by affidavit, stating the facts;

TOP

and when it is sought to substitute the name of a sub-purchaser for that of an original purchaser, the affidavit shall also show that there was no collusion or under-bargain between the purchaser and sub-purchaser and sub-purchaser before the sale was confirmed, or shall disclose the terms of the under-bargain, if any.

572. Substitution of names not allowed after execution of conveyance - No order shall be made for the substitution of names under the last preceding rule after the execution of the conveyance to the purchaser.

573. When additional price and additional stamp-duty to be paid into Court – Unless it shall appear that the purchase by a sub-purchaser was made after the sale had been confirmed or unless otherwise ordered, every order of the substitution of the name of a sub-purchaser for that of an original purchaser shall be made subject to the payment into Court as part of the purchase-money of any additional price obtained by the original purchaser from the sub-purchaser and of the amount of additional stamp duty that may be payable on account of the additional price.

574. One application may be made for the substitution of names and confirmation of sale – The application for the substitution of names under rule 571 may be made as part of the application to confirm the sale.

575. Extra costs of obtaining substitution of names – Unless otherwise ordered, all extra costs incurred in obtaining the substitution of names under rule 571 beyond those of an ordinary application for confirmation of sale shall be borne by the principal whose name is to be substituted for that of an agent, or by the sub-purchaser whose name is to be substituted for that of an original purchaser.

576. Mortgagee to include sharer in property which is subject-matter of partition suit, administration suit and partnership suit - In this chapter,, the expression "mortgagee" shall include a person who in entitled to a share in property which is to be sold and which is the subject matter of a suit for partition, or for administration of an estate or for dissolution of a partnership and who has been allowed leave to bid and to set off his share against the purchase money.

TOP

577. Sale by private contract – The sale of property ordered to be sold by the Commissioner by private contract shall be regulated by the foregoing rule, so far as they may be applicable.

Settling Proclamation of Sale in Execution

578. Copy of warrant of sale of property attached in execution to be lodged in Commissioner's office – When immovable property has been attached in execution of a decree and the attaching creditor is desirous of having the same sold, he shall lodge a certified copy of the warrant of sale in the Commissioner's office.

579. Commissioner may summon judgment-debtor to attend and produce title-deeds of his property – The Commissioner shall, when the attendance of the judgment-debtor can conveniently be procured, issue a summons calling upon him to attend upon a day therein named and to produce and lodge with the Commissioner all title-deeds and other documents affecting the property proposed to be sold which may be in his possession or power. Such documents shall (if produced) be left with the Commissioner and shall be subject to his directions both as to their custody pending the sale and their ultimate destination, such directions being subject to appeal to the Judge in Chambers. The summons shall be in Form No. 76.

580. Inquiry before commissioner as to matters specified in Order XXI, Rule 66, C.P. Code - If the judgment-debtor attends upon the day named in the summons, the Commissioner shall examine him on any matter affecting his title to the attached property. The judgment creditor may also examine him on any matter relating thereto. If the judgment-debtor fails to attend on the summons or if no summons has been issued, the Commissioner may proceed *ex-prate*. In conducting an inquiry under these rules the Commissioner may also summon any person whom he thinks necessary and examine him in respect of the matters specified in Order XXI, Rule 66, of the Code of Civil Procedure an may require him to produce any documents in hi possession or power relating thereto, but such documents shall not, unless the Commissioner for reasons to be recorded otherwise directs, be handed over for perusal to any person other than the Commissioner or the Interpreter, and shall at the end of the particular inquiry to which they relate be restore to the person who has produced them.

TOP

581. Notice to all persons to lodge claims against attached property – The Commissioner shall also, at the instance of the judgment-creditor, issue a notice to all persons having any right or interest in or any charge or claim on the attached property or any part thereof (except claims under Order XXI, rule 58, of the Code of Civil Procedure involving an objection to the attachment or seeking the removal of the same, which claims will be disposed of by the Judge in Chambers) that they should, on or before a day to be named therein, lodge in the office of the Commissioner a statement verified on oath or solemn affirmation of the right, interest, charge or claim set up in each case. The notice shall in Form No. 77 or as near thereto as the circumstances of the case may require, and shall be published in such newspapers as the Commissioner may direct and copies thereof shall be posted upon the attached premises and in conspicuous places in the Collector's office and in the High Court.

582. Time to be fixed for investigation of claims – When any such claim has been lodged in the office of the Commissioner, he shall enter the same in a register to be kept for the purpose and shall fix a day for the investigation thereof. The judgment-creditor shall then obtain from the Commissioner a summons calling upon the claimant to appear before the Commissioner upon the day so fixed with such evidence as he may desire to produce in support of his claim.

583. Inquiry into claims – Upon the day named in the summons or upon any adjourn med thereof, the Commissioner shall proceed to deal with the several claims brought forward relating to the property proposed to be sold, and after a perusal of the document by which such claims are supported and resisted and after taking such oral evidence and hearing such arguments as shall be brought forward, determine summarily, whether such claims or any of them shall be included in the list of claims to be appended to the proclamation of sale.

584. On completion of inquiry a list of claims to be drawn up - When the Commissioner shall have investigated the several claims relating to the attached property, he shall draw up a list of all claims for which a reasonable and probable ground exists, and append the same to the proclamation of sale.

585. Proclamation of sale – The Commissioner shall immediately after such inquiry prepare the proclamation of sale required by Order XXI, Rule 66 of the Code of Civil Procedure in Form No. 78 with such variations as the circumstances of the particular case may require, and

TOP

shall forward the same to the Sheriff of Bombay upon the application of the judgment-creditor or Advocate on record.

Miscellaneous

586. Appeal from decision of Commissioner – The decision of the Commissioner on any matters mentioned in the regions rules shall be subject to appeal to the Judge in Chambers.

587. Rules to apply to Special Commissioner –The rules in this chapter relating to the Commissioner shall, with any necessary modifications, apply to a Special Commissioner, so far as they may be applicable.

588. Commissioner to include Assistant Commissioner, etc – The expression "Commissioner" shall include the Assistant Commissioner and any other Officer who may be authorized by the Chief Justice to perform the duties usually performed by the Commissioner.

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TOP

CHAPTER XXX

OFFICE OF THE RECEIVER

589. Application for appointment of Receiver – An application for the appointment of a receiver of property, the subject matter of a suit or matter, shall be made to the Court, and the Prothonotary and Senior Master shall, on issuing the order of appointment, forward to the Commissioner for Taking Accounts a certificate stating the name of such receiver and the conditions, if any, on which he has been appointed.

A receiver may be appointed by the Judge in Chambers if the matter is one usually dealt with in Chambers.

590. Security to be given by a Receiver other than the Court Receiver - When an order is made appointing a person, other than the Court Receiver, as receiver, the person appointed shall, unless otherwise ordered, first give security to the satisfaction of the Prothonotary and Senior Master in such sum as the Court may direct duly to account for what he shall receive in respect of the property of which he is appointed receiver at such periods as may be prescribed by these rules or as the Court may direct, and duly to pay or to deliver the same as the Court may from time to time direct.

[1]**[591: Fees of Court Receiver** – Unless otherwise ordered by the judge, the Court Receiver shall charge fees according to the following scale: -

Sr. No.	Scale of Fees	Percent
1	On Rents, Royalties or License fees recovered	8
2	On outstanding recovered except as provided in item 3 below:- On the first Rs. 2,00,000/- or fraction thereof On the next Rs. 2,00,000/- or fraction thereof On the next Rs. 1,00,000/- or fraction thereof On any further sum over Rs. 5,00,000/-	 5 3 2
3	On outstanding recovered from a Bank or from a public servant without filing a suit	2
4	On sale of properties movable or immovable calculated on the total	

1 . Amended by High Court Notification No. G/Amend/312 dt. 18-03-2021 published in M.G.G., Part- IV-C, dated 18/03/2021

TOP

	value realized in any one estate.	
	On the first Rs. 5,00,000/- or fraction thereof	3
	On the next Rs. 5,00,000/- or fraction thereof	2 ½
	On the next Rs. 2,00,000/- or fraction thereof	2
	On any further sum over Rs. 12,00,000/-	1
5	Charges payable in advance for taking charge of property in any proceeding :-	
	Movable property in one estate	25,000/-
	Immovable property –	
	(i) Building or a part thereof	25,000/-
	(ii) Open Land	35,000/-
	(iii) Building with open land appurtenant thereof	50,000/-
6	For taking custody of money	3
7	For taking custody of Government Securities or Stocks, Shares, Debentures, Debenture-Stock or other Securities which are not sold on the estimated Value	2
8	On the interest earned by investment of funds in the custody of the Court Receiver.	6
9	For any special work, not provided for above, such remuneration as the Court on the application of the Receiver shall think reasonable.	

While calculating fees to be charged, the amount will be calculated to the nearer whole rupee by giving up the amount less than 0.50 ps. and counting the amount of 0.50 ps. and above a whole rupee.]

[1][**592: Court Receiver to charge office expenses to estate.-** The Court Receiver shall, unless otherwise ordered by the Judge, charge to suits, estates or matters under his management a sum which in his discretion he considers proper, toward the expenses of his office including his salary and this he shall do so with due regard to the fees charged by him under Rule 591 and to the value of each suit, estate or matter and the labour and trouble involved in its management.

"The Court Receiver shall charge fixed fees in respect of certain items according to the scales set out in the table below subject to revision after 5 years with the approval of the Chief Justice. On appointment being made of the Court Receiver by High Court or City Civil

1 . Amended by High Court Notification No. G/Amend/312 dt. 18-03-2021 published in M.G.G., Part- IV-C, dated 18/03/2021

TOP

Court, the Court Receiver shall be entitled to recover deposit of Rs. 50,000/- from the parties at whose instance the appointment is made. The deposit shall be adjusted against the cost and charges payable to the Court Receiver."

Sr. No.	Description	Amount (in Rs.)
1	Office Expenses (per year)	1,000/-
2	Printing and Stationery Charges (per year)	1,000/-
3	Vouchers and correspondence file (each file)	500/-
4	Postage and Revenue stamp charges (per year)	1,000/-
5	Establishment charges (per year)	3,000/-
6	Cost of the Court Receiver's Report if awarded by the Hon'ble Court	5,000/-
7	Clerk/Assistant Section Officer / S.O. Attendance / visit charges (local) (out of Rs. 1,000/- Rs. 300/- may be given to the person attending the site as a daily allowance.)	1,000/-
8	Clerk / Assistant Section Officer / S. O. Attendance / visit charges (outstation) (out of Rs. 1,500/- Rs. 500/- may be given to the person attending the site as a daily allowance). charges for working beyond office hours either local or outstation.	1,500/-
	1. Master (Adm) (per hour or part thereof)	400/-
	2. Section Officer (per hour or part thereof)	300/-
	3. Assistant Section Officer (per hour or part thereof)	200/-
	4. Clerk (per hour or part thereof)	100/-
9	Cost of possession board	250/-
10	Cost of Rent Bill Book	250/-
11	Cost of Rent Recovery Register	250/-
12	Cost of remittance payment slip	10/-
13	Misc. expense (minimum/variable)	5,000/-
14	Costs of storage charges of books of accounts (per year)	500/-
15	Cost of cloth piece	200/-

TOP

16	Towards charges of making inventory without possession (+) expert fees extra	10,000/-

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593. Investment of moneys by the Court Receiver – The Court Receiver shall, out of moneys standing to the credit of a suit or matter, invest such amount, as is not immediately required for payment or for meeting the current expenses relating to the suit or matter, in consultation with the parties to the suit or matter, in Government securities or in interest bearing deposits in any Scheduled Bank in the name of the Court Receiver as Receiver in suit or matter. The dividend or interest accruing on such investment shall be credited to the account of the same suit or matter from which the moneys were so invested.

594. (a) Period for filing Receiver's account with the Commissioner – (a) A receiver, other than the Court Receiver, shall, in the absence of any directions of the Court or the Judge in Chambers to the contrary, file his account in the office of the Commissioner within three months from the expiry of a year from the date of his appointment and thereafter within three months from the expiry of each subsequent year.

Period for filing the Court Receiver's Account with the Commissioner – (b) The Court Receiver shall, in the absence of any directions of the Court or the Judge in Chambers to the contrary, file in the office of the commissioner his account from the date of his appointment to the end of the next calendar year within three months from the expiry of the said calendar year and thereafter within three months from the expiry of each subsequent year: provided that where important entries in the account do not exceed a dozen on each side, the Court Receiver may file office account for a period not exceeding three years.

Where the Court Receiver is discharged after the end of a calendar year and before the account is filed, he may file his account up to the date of his discharge.

In drawing up every order for the appointment of a receiver, a provision shall be made requiring the receiver to file his account in the office of the Commissioner as provided by this rule

TOP

595. Form of receiver's account – The account of a receiver to be filed in the office of the Commissioner shall be in Form No. 81 with such variations as the circumstances may require. An affidavit verifying the account shall be endorsed at the foot of the account and shall refer to it as an exhibit.

596. Certified copy of the Minutes of the decree or order to be served on the Receiver – In a suit or matter where a Receiver has been appointed, a certified copy of the minutes of the decree or order containing provisions which directly or indirectly concern the Receiver shall be served on the Receiver by the party on whose application the decree or order is passed with one week from the date of such decree or order:

Provided, however, that where the party is represented by an Advocate entitled to act on the Original Side of this Court, it shall be the duty of such Advocate to serve a certified copy of the minutes of the decree or order on behalf of the party within the time herein provided.

597. Provisions for payment of Receiver's costs etc. – When an order is made directing the receiver to part with any property the order shall provide that the costs, charges, expenses and commission of the receiver shall be paid by such party as the Court may direct as a condition precedent to such delivery.

598. Rules in this chapter to apply to interim receiver and *administrator pendente-lite.* – The rules contained in this chapter and all other rules applicable to a receiver shall, with any necessary modifications, apply to an interim or provisional receiver and to an administrator *pendente lite.*

599. Sale by Court Receiver – The rules contained in Chapter XXIX relating to sales of movable and immovable property shall, with any necessary modifications, apply to sales held by the Court Receiver.

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TOP

CHAPTER XXXI
TAXATION AND ADVOCATE'S FEE

600. Definitions – In Rules 601 to 604, unless the context otherwise requires, the word "attorney" will mean an attorney or firm of attorneys, practicing as such prior to 1st January 1977, and "High Court" will mean the Original Side of the High Court at Bombay

601. Time for lodging Bill of Costs by Attorneys – In –

(a) every suit or proceeding in the High Court disposed of prior to 1st January 1977;

(b) every matter completed prior to 1st January 1977, which is not subject to any proceedings in Court, and

(c) any matter whether subject to Court proceedings or not, where it is desired to have bill of costs taxed for work done upto 31st December 1976

an attorney shall lodge his bills of costs for taxation whether the bill be between party and party or otherwise on or before 31st December 1982;

Provided that bills of costs which could not have been lodged for taxation without an order of the Chamber Judge under the Rules in force prior to 1st January 1977, shall not be accepted by the Taxing Master without an order of the Chamber Judge, permitting such bills to be lodged on sufficient grounds.

602. Enlargement of time – The Chamber Judge may on sufficient cause being shown enlarge the time appointed by Rule 601 fixed by an order enlarging time, upon such terms, if any, as he may think proper.

603. Fixed costs in pending cases – In any suit or proceeding pending on 1st January 1977, where any party is presented by an attorney prior to 1st January 1977, the Court disposing of the suit or proceeding shall, if costs are awarded to any party, quantify the amount of such costs after taking into consideration the work done through attorneys prior to 1st January 1977.

TOP

604. Earlier rules to apply in certain cases – All the rules and provisions in the Rules and Forms of the Bombay High Court on the Original Side, in its several jurisdictions, relating to taxation of Bills of Costs of attorneys, and relating to recovery of such costs, as in force prior to 1st January 1977, shall, if not inconsistent with the above rules, continue to apply to taxation by the Taxing Master, of all pending Bills of Costs and any new Bills of costs to be taxed hereinafter pursuant to Rules 601 and 602 above, and also to recovery of such costs.

605. Duty of the Attorney to return the papers on discharge – When in any proceeding, pending on 31st December 1976, the attorney engaged for any part ceases to appear for such party, or is subsequently discharged before the final disposal of the matter, the Court or the Judge hearing the matter may direct the attorney to return to the client immediately all papers entrusted to the attorney in connection with the matter, on the client paying to the attorney his costs as may be settled or taxed or paying to the attorney or depositing in Court, such amount towards the costs of the attorney, as provisionally fixed by the Court, Where the amount provisionally fixed as cost is paid or deposited as and when the costs of attorney discharged as aforesaid are finally determined, the amount paid or deposited as aforesaid shall be adjusted towards such costs.

606. Computation of Advocate's fee.—Where costs are awarded to a party in any proceeding in the High Court the amount of the Advocate's fee to be taxed in the bill of costs recoverable by such party, if represented by an Advocate from his adversary, shall be computed in accordance with the rules herein below:—

(1) In the following mattes, viz:—

(a) Suits which are decided on merits;

(b) Appeals from decrees decided on merits (including preliminary decrees) other than appeals from execution proceedings,

(c) References under Land Acquisition Act, I of 1894 or appeals, therefrom decided on merits, the amount of Advocate's fees shall be computed on the amount or value of the subject matter in dispute in the suit, appeal or reference at the rates specified below:—

If the amount or value of the subject-matter in dispute does not exceed Rs. 25,000 at 8 per cent.

TOP

If such amount or value exceeds Rs. 25,000 but does not exceed Rs. 50,000, on Rs. 25,000 as above and on the remainder at 6 per cent.

If such amount or value exceeds Rs. 50,000 but does not exceed Rs. 1,00,000, on Rs. 50,000 as above and on the remainder at 4 per cent.

If such amount or value exceeds Rs. 1,00,000 but does not exceed Rs. 5,00,000, on Rs. 1,00,000 as above and on the remainder at 2 per cent.

If such amount or value exceeds Rs. 5,00,000 on Rs. 5,00,000 as above and on the remainder at 1 per cent subject to maximum of Rs. 25,000.

(2) In case of—

(i) Summary suits under Order XXXVII of the first schedule to the Code of Civil Procedure, 1908, where the defendant does not appear or where leave to defend is refused or where a decree is passed on the defendant failing to comply with the conditions on which leave to defend was granted and appeals against decrees in such suits.

(ii) Suit the claim in which is admitted but only time or installment for payment is asked for,

(iii) Suit which is got dismissed by a plaintiff for want of prosecution before settlement of issues or recording of any evidence, except evidence under rule 2 of Order X of the Code of Civil Procedure,

(iv) Suit which is withdrawn before the settlement of issues or recording of any evidence except evidence under rule 2 of Order X of the Code of Civil Procedure,

(v) Suit in which judgment is given on admission under rule 6 of Order XII in the First Schedule to the Code of Civil Procedure, 1908, before the settlement of issues or recording of any evidence except evidence under rule 2 of Order X of the Code of Civil Procedure,

TOP

(vi) Short causes, commercial causes and long causes in which no written statement is filed and appeals from decrees in such suits,

(vii) Suits compromised before the settlement of issues or recording of evidence except evidence under rule 2 of Order X of the Code of Civil Procedure,

(viii) Any formal party to a suit or appeal e.g. a trustee or estate holder who only appears to submit to the orders of the Court and asks for his costs,

(ix) A suit or appeal which has abated,

(x) A plaint returned for presentation to the proper Court,

the amount of Advocate's fee to be allowed shall be fixed by the Court disposing of the matter and shall not exceed ¼th of that payable according to the rate specified in sub-rule (1) above;

Provided that in no case falling under this sub-rule - the Advocates' fees shall be less than Rs. 300.

(3) Where at the hearing of any suit, reference under the Land Acquisition Act or appeal, disposed of on merits, more than one Advocates have appeared, the Court disposing of the matter may allow such fee, for a second Advocate, as it deems fit not exceeding half the fee allowable under sub-rule (1) above in the following cases: —

(i) In a suit, reference under the Land Acquisition Act or appeal in which the amount or value of the subject matter exceeds Rs. 25,000:

Provided that the fees of two Advocates shall not be allowed –

(a) in summary suits, disposed of as summary suits,

(b) in uncontested short causes,

(c) in undefended long causes,

(d) to any formal party to a suit or appeal, e.g. a trustee or an estate holder who only appears to submit to the orders of the Court and asks for his costs.

(e) In appeals from decrees in suits referred to in (a) to (c) above,

TOP

(f) In suits and appeals filed by indigent persons except where specifically ordered by the Court.

(ii) In any suits, reference under the Land Acquisition Act, or appeal of which the amount or value of the subject-matter is less than Rs. 25.000 where the Court for reasons to be recorded in writing considers it proper to do so.

(4) In long causes, where there are several parties but all are not real contestants, the Chamber Judge on the Summons for Directions may direct which of the parties may engage two Advocates for the purpose of taxing costs. No party, in whose favor such directions have not been given shall be allowed the costs of two Advocates under sub-rule (3) above.

(5) Subject to the provisions of sub-rule (12) below, the fee Prescribed in sub-rules (1) to (3) and (6) to (9) shall be taken to be the remuneration for the Advocate's service until the final decree or order is passed.

(6) In execution proceedings or in appeals in execution proceedings the Advocate's fee to be allowed shall be one-fourth of the fee calculated at the rates specified in sub-rule (1) on the amount or value of the relief or money claimed in the application to execute the decree. Such fee shall be chargeable only on the first application and on any subsequent contested application.

(7) (i) The fee for *ex-parte* and or on non-contested Chamber Summonses shall be Rs. 75. The fee for contested Chamber Summonses and appeals from orders on Chamber Summons shall be Rs. 150.

(ii) The fee for *ex-parte* and non-contested notices of motion shall be Rs. 150. The fee for contested Notice of Motion and appeals from orders on Notices of Motion shall be Rs. 300.

The Court or Judge disposing of the matter shall have discretion to increase the fees prescribed in this rule in a fit case.

TOP

(8) In all applications, petitions, references or other proceedings or appeals contested or otherwise under: -

(i) Chartered Accountants Act, 1949,
(ii) Copy Right Act, XIV of 1957,
(iii) Estate Duty Act, XXXIV of 1953,
(iv) Gift Tax Act, XVIII of 1958,
(v) Guardians and Wards Act, VIII of 1890,
(vi) Indian Arbitration Act, X of 1940,
(vii) Companies Act, (I of 1956)
(viii) Indian Divorce Act, IV of 1869,
(ix) Income-tax Act, 1961 (XLIII of 1961)
(x) Indian Succession Act, XXXIX of 1925,
(xi) Indian Trust Act, II of 1882,
(xii) Insurance Act, IV of 1938,
(xiii) Lunancy Act, IV of 1912,
(xiv) Patents and Designs Act, II of 1911,
(xiv-a) Patents Act, (XXXIX of 1970),
(xv) Presidency Towns Insolvency Act, III of 1909,
(xvi) Sales Tax Act, 1959, (LI of 1959),
(xvii) Super Profit Tax Act, (XIV of 1963)
(xviii) Trade and Merchandise Marks Act, XLIII of 1958,
(xix) Wealth-tax Act, XXVII of 1957,
(xx) Any other special or local Acts unless special provision is made in the Act itself or otherwise, and
(xxi) In originating Summons,

(a) the fee for ex parte or non-contested applications, petitions, references or appeals shall be Rs. 150.
(b) the fees for contested applications, petitions, references or appeals shall be Rs. 300. The Court or Judge disposing of the matter shall have discretion to increase the fees prescribed in this rule in a fit case.

TOP

(9) The Advocate's fee in an application made under Article 226 of the Constitution and in an appeal from an order passed on such application shall be Rs. 300:

Provided that Court hearing such application or appeal may, having regard to the labour involved in the preparation of the case or the complexity of issues arising therein or for any other sufficient reason allow such higher fees as it deems proper.

(10) If a suit is compromised after the settlement of issues or recording of any evidence other than evidence under Rule 2 of Order X of the Code of Civil Procedure, the suit shall be treated as decided on merits.

(11) An Advocate who has been employed by the heirs of a deceased party is not entitled to have fresh fees taxed.

(12) In all proceedings in which a Commission is issued to examine any person under the provisions of section 75 of the Civil Procedure Code the Advocate's fee shall consist of an amount computed in accordance with the above rule *plus* such fee per day for appearing before the Commissioner as the Court may in its discretion allow.

(13) Where costs are awarded to a party in any proceeding the amount of the Advocate's fee to be taxed in the bill of costs is recoverable by such party if represented by an advocate from his adversary and shall be computed in accordance with the rules above unless such fee has been settled under the provisions of section 3 of the Legal Practitioner's (Fees) Act, 1926, for a lesser amount in which case not more than such lesser amount shall be recoverable.

(14) Where in any proceeding there are several parties having the same interest, or putting forward the same defense, they shall not, if awarded costs, be allowed more than one set of Advocate's fee on taxation unless the Court otherwise directs.

607. Charges for interpretation and administration of Oath – The fees paid by a party for interpretation of an affidavit or for administering an oath or solemn affirmation should be held to be costs incurred in the case and included in the bill of costs.

TOP

608. Travelling allowance of a public servant. - Traveling allowance paid by the Government or a public authority to a public servant who was summoned as a witness in any case as also the amount deposited by a party to cover the traveling allowance payable to such public servant should be included in the bill of costs.

609. Court's power to fix costs where no provision is made – When the amount or scale of Advocate's fee in respect of any proceeding is not otherwise prescribed under these rules relating to the taxation of costs, the Court disposing of the matter shall quantify the Advocate's fee to be allowed in the bill of costs.

610. Rounding off - In calculating the Advocate's fee under Rule 606, the fraction of a rupee should be rounded up by increasing the amount to the next rupee.

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TOP

CHAPTER XXXII

OFFICE OF THE CHIEF TRANSLATOR AND INTERPRETER

611. Translator's office to be in two parts and to be supervised by Prothonotary and Senior Master and Registrar - The Office of the Chief Translator and Interpreter shall, as far as possible, be divided into two parts, the one containing the names of those employed in work for the Original side, and the other of those employed in work for the Appellate Side. The Prothonotary and Senior Master will supervise the one, and the Registrar the other, and all complaints shall be made to, and will be inquired into, by those Officers, respectively.

612. Oath or affirmation to Translator and Interpreter- Every Translator and Interpreter including a Special Translator and Interpreter shall before his admission to office make an oath or solemn affirmation that he will translate and interpret correctly and accurately all documents given to him for translation or interpretation and that he will well and truly interpret and explain all questions put to witnesses and the evidence given by them.

613. Registers of work – Registers shall be kept showing the work that is received (per folio of ninety words), the date of receipt, the date of completion, the number of folios done by each member of the office and the amount of fees paid.

614. Return of work – A Return showing the work done by the several members of each division shall be forwarded monthly to the officer supervising such division.

615. Unofficial Translation of Interpretation prohibited - No Translator and Interpreter shall translate or interpret any document, whether relating to High Court matter or not, unless it is officially accepted by the office of the Chief Translator and Interpreter for translator or interpretation.

616. Interpretation of documents of blind persons – When a pleading, affidavit or any other document is required to be interpreted to a blind person, the Interpreter shall read and interpret the pleading, affidavit or document to the blind person in the presence of an Officer authorised to administer oaths. The said Officer shall certify at the foot of the pleading, affidavit or document that the pleading, affidavit or document was read and interpreted in his

TOP

presence to the party concerned, that the said party seemed perfectly to understand it and that he subscribed his signature or mark to the document in question in the presence of the officer. No such pleading, affidavit or document shall be used in evidence in the absence of such certificate, unless the Court is otherwise satisfied that the document in question was read and interpreted to and appeared to be perfectly understood by the party concerned.

617. Interpretation of documents of deaf and dumb persons – When a pleading, affidavit or any other document is required to be interpreted to a deaf and dumb person who is able to read, write and understand any particular language, it shall be lodged for translation into the language known to such person. The said person shall be asked to read the translation and then sign the translation and the pleading, the affidavit or the document in token of his having understood and approved its contents. The translation shall remain in the office of the Chief Translator and Interpreter and shall be produced in Court, if required. In such cases, the Chief Translator and Interpreter shall recover the translation charges and not the interpretation charges.

618. Interpretation out of office hours – In cases –

(a) Where a document is required to be interpreted out of office hours (whether in the Court Houses or outside the Court House), or

(b) Where the attendance of an interpreter is required to interpret evidence at a *de-bene-esse* examination or at an examination on commission out of office hours, (whether in the Court House or outside the Court House),

a written application stating the place at which the interpreter is required to attend and the purpose for which he is required shall be made to the Chief Translator. The application shall be accompanied by a deposit of the interpretation charges and the fee for the interpreter's attendance in cases where it is payable under the Table of Fees. On receipt of such application the Chief Translator shall, unless he sees any reason to the contrary direct an interpreter to attend. As far as practicable the Chief Translator shall require the interpreters to attend in rotation.

TOP

619. Rule 618 to apply to Special Interpreters - Rule 618 shall apply, with any necessary modifications, to Special Interpreters appointed under Rule 629.

620. When documents sent for translation – A party to a suit or matter shall, as soon as possible, send to the Chief Translator's office for translation into English any document not in the English language on which he intends to rely at the hearing of the suit or matter. If he fails to do so or sends the same so late that the translation is not ready when the case is called on, the Judge may not allow the said document to be tendered in evidence and may proceed with the hearing of the suit or matter, or he may adjourn the hearing of the suit or matter and pass such order as to the costs of the adjournment and of the translation as he may deem fit.

621. Deposit to cover fees – When a party in person or an Advocate lodges a document for translation or lodges an official translation of a process of the Court for the purpose of preparing certified copies of the translation, he shall deposit with the Chief Translator and Interpreter a sum sufficient to cover the fees for such translation or certified copies.

622. Procedure when reader's assistance is required – A Translator, who requires the assistance of a reader to read a document before translating it, may, with the permission of the Chief Translator and Interpreter, call upon the party concerned to provide a reader to read the document. The document shall be transcribed at the dictation of the reader by a clerk of the Chief Translator's office. The said clerk shall sign the transcript. The reader shall also subscribe his signature to the transcript and shall make an affidavit that he knows the language of the document and that he has truly and correctly and to the best of his ability read the document. The transcript shall remain in the Office of the Chief Translator and Interpreter and inspection thereof shall be given to the opposite party on application by such party. The transcript shall be produced in Court, if required.

The Translator shall make an endorsement at the foot of the translation, stating that the document was read over to him and giving the name, address and occupation of the person by whom the document was read.

If the party fails to provide a reader as required, the Chief Translator and Interpreter may return the document untranslated.

TOP

623. Translation from dictation of reader when inadmissible in evidence – No translation of any document translated by the Translator from the dictation of a reader shall be read in evidence at the trial of any defended cause, unless before such trial notice shall have been given to the opposite party or his Advocate on record, in order to enable such party to attend the Chief Translator's Office and verify the correctness of the transcript.

624. If transcript is incorrect costs of fresh translation – If the transcript is found to be incorrect, and a fresh translation is rendered necessary, all costs of an incidental to such fresh translation shall be borne by the party filing the document.

625. Inspection of documents lodged in Chief Translator's Office - A party to a suit or matter shall be entitled to take inspection of a book or document lodged by the opposite party in the Chief Translator's Office after obtaining the consent in writing of the opposite party and on payment of a fee of rupee one per day.

626. Translation of document in possession of the other side – Where translation of a document in the possession of one party is required by the other party for the hearing of the suit, the former, on a request made in writing by the latter, shall immediately send the original to the Chief Translator's Office for translation, or allow the latter to take copies thereof, and after examination of such copies, without any delay certify them to be correct copies. Translations of such certified copies shall be admissible at the hearing. In dealing with the costs of the suit, the Judge shall have regard to any failure to comply with the provisions of this rule.

627. Copy of translation to be furnished to the other side – An Advocate on record who shall obtain a translation of any document to be used for the purposes of a suit or matter shall, if required, furnish a copy of such translation to the opposite party or his Advocate on payment of half the ordinary translation charges.

628. Intimation of change of Advocate to be given to the office - After an Advocate on record sends a document for translation to the Chief Translator's Office, if there is a change of Advocate, the Chief Translator's Office shall be informed at once by such Advocate of such change, and of the name of the new Advocate, or the address of the client if he thereafter appears person.

TOP

629. Special Translators and Interpreters – Translation of documents which are written in any language other than Marathi, Gujarati, Hindi, or Urdu and interpretation of documents in the English Language into any language other than the aforesaid languages shall be done by Special Translators and Interpreters appointed by the Chief Justice. Applications for such translation or interpretation shall be made to the Chief Translator and Interpreter who will assign the work to the Special Translators and Interpreters.

630. Translations when admissible - Documents which are not in the English language shall not be accepted in evidence unless officially translated or translated, at the instance of the Chief Translator, by a special translator, or by any retired translator of the High Court with the sanction of the Chief Justice. Unofficial translations may be accepted subject of official translation if good and satisfactory reason is given why the document was not lodged in the office of the Chief Translator and Interpreter in time for translation.

Notwithstanding anything contained in the above paragraph:-

(1) The Court may allow unofficial translations of documents to be put in at the hearing and dispense with official translation, provided that the translations are agreed to by all the parties appearing in the suit or matter;

(2) Acknowledgments of service by Registered Post bearing a signature in Gujarati or Devnagari script, when annexed to an affidavit of service, need not be translated.

631. Translation may be ordered by Court – The Court or the Judge in Chambers may at any time require a party to the suit or matter to produce and leave in the Chief Translator's Office any document not in the English language in his possession for the purpose of being officially translated, and may order that the translation when made shall be filed with the proceedings in the suit.

632. Sanction for immediate translation – The Prothonotary and Senior Master, on good cause being shown, may sanction the immediate translation of any documents on payment of double the usual fee.

TOP

633. Translator's office to translate documents put in subject to translation - The Chief Translator's office shall, on the request in writing and at the cost of any party to the proceedings or his Advocate on record, translate any document which may, or so much of any document as may, have been admitted in evidence subject to official translation thereof.

[1]**[634. Sanction for translation or interpretation of document not relating to High Court matters during or after Office hours -** Documents not relating to suits or matters in the High court may be accepted by the Chief Translator and Interpreter for official translation or interpretation either during or after office hours on payment of charges prescribed in the Table of Fees with the previous sanction in writing of the Prothonotary and Senior Master and subject or such special or general orders of the Honourable the Chief Justice that may be passed from time to time.

The Prothonotary and Senior Master may give written sanction provided he is satisfied that such work will not result it delaying the regular work of the office of the Chief Translator and Interpreter, High Court, Bombay.]

[2]**[635. Deleted]**

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1 . Rule 634 was substituted by G.N.No.G/Amend/6368, dated 20-8-1992, Pub. in M. G. G. Pt. IV-Ka,p.717.
2 . Rule 635 was deleted by G.N.No.G/Amend/6368, dated 20-8-1992, Pub. in M. G. G. Pt. IV-Ka,p.717.

TOP

CHAPTER XXXIII

RULES FOR THE ISSUE OF WRITS UNDER ARTICLE 226 OF THE CONSTITUTION OTHER THAN HABEAS CORPUS

[1][**636. Application for Writ, etc., under Article 226 of the Constitution.—** (1) (a) Application under Article 226 of the Constitution other than an Application for a Writ of Habeas Corpus, in matters arising substantially within Greater Bombay out of –

(i) The orders passed under the Bombay Municipal Corporation Act, 1888;

(ii) The orders passed under the Maharashtra Housing and Area Development Act, 1976, and under the enactments repealed by the said Act;

(iii) The orders passed under the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act; 1971;

(iv) The orders passed under the Industrial Disputes Act, 1948;

(v) The orders made in applications under the Bombay Industrial Relations Act, 1946;

(vi) The orders passed under the Maharashtra Restoration of Lands to Scheduled Tribes Act, 1974 (Act XIV of 1975);

(vii) The orders passed under the Maharashtra Co-operative Societies Act, 1960;

(viii) The orders passed under Chapter VI and WI of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971;

(ix) The orders passed under the Payment of Gratuity Act, 1972; (Act No. 39 of 1972);

(x) The orders passed under the Workmen's Compensation Act, 1923;

(xi) The orders passed under the Payment of Wages Act, 1936;

(xii) The orders passed under the -Minimum Wages Act, 1948;

(xiii) The orders passed under the Bombay Prohibition Act, 1949;

(xiv) The orders passed under the Maharashtra Land Revenue Code, 1966;

(xv) The orders passed under the Maharashtra University Act, 1994;

(xvi) The orders passed under the Bombay Stamp Act, 1958;

(xvii) The order passed under the Bombay Police Act, 1951;

1. Substituted vide High Court Notification No. P. 3601 / 2013 dt. 27-08-2013 published in M.G.G., Extra Ord., Part IV-C dt. 28-08-2013.

TOP

(xviii) The orders passed under the Bombay Shops and Establishments Act, 1948;

(xix) The orders passed under the Bombay Port Trusts Act, 1879;

(xx) The orders passed under the Bombay City (Inami and Special Tenures) Abolition and Maharashtra Land Revenue Code (Amendment) Act, 1969;

(xxi) The orders passed under the Banking Corporation (Acquisition and Transfer of Undertakings) Act, 1970;

(xxii) The orders passed under the Displaced Persons (Compensation) Rehabilitation Act, 1964;

(xxiii) The orders passed under the Electric (Supply) Act, 1948;

(xxiv) The orders passed under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952;

(xxv) The orders passed under the Employees' State Insurance Act, 1948;

(xxvi) The orders passed under the Factories Act, 1948;

(xxvii) The orders passed under the Indian Railways Act, 1890;

(xxviii)The orders passed under 3 the Electricity Act, 2003;

(xxix) The orders passed under the Motor Vehicles Act, 1939;

(xxx) The orders passed under the Major Port Trust Act, 1963;

(xxxi) The order passed under the Merchant Shipping Act, 1958;

(xxxii) The order passed under the Registration Act, 1908;

(xxxiii) The orders passed under the Wireless, Telegraphy Act, 1933;

(xxxiv) The orders passed under the Maharashtra Employees of Private Schools (Conditions of Service) Regulations Act, 1971;

(xxxv) Orders passed under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971;

(xxxvi) Orders passed under Bombay Public Trusts Act, 1950,

[1][(xxxvii) Orders passed under the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963.]

may be heard and finally disposed of by a Single Judge to be appointed in this behalf by the Chief Justice:

1 .Added by Notification No. G/Amend/435/2021, dt. 12.05.2021.

TOP

Provided when the matter in dispute is or relates to the challenge to the validity of any statute or any rules or regulation made thereunder and arising substantially within Greater Bombay shall be heard and disposed off by a Division Bench to be appointed by the Chief Justice:

Provided further that the Chief Justice may assign any petition or any category of petitions falling under Clauses (i) to [1][(xxxvii)] or any Clause that may be added hereinafter, to a Division Bench. -

Explanation.—The expression "order", appearing in clauses (i) to [1][(xxxvii)] means any order passed by any Judicial or quasi-judicial Authority empowered to adjudicate under the. above mentioned statutes.

(1) (b) All applications under Article 226 other than those mentioned in Sub-rule (1) (a) above, shall be heard and disposed of by a Division Bench to be appointed in this behalf by the Chief Justice.]

[2][(2) Every application mentioned in [3][sub-rule (1) (a) and (1) (b)] shall be accompanied by a Certificate of the Advocate for the Petitioner, certifying that the application in question arises out of the matters mentioned in sub-rule (1) or sub-rule (2) and for placing the same for hearing before a Division Bench or a Single Judge, as the case may be.

[4][(3)] Rule 42 applicable to plaints shall except otherwise provided for in this Chapter, apply *mutatis mutandis* to petitions under this Chapter.

[2][(4)] The Petitioner shall annex to his petition a list of all documents in support of the relief, including interim reliefs, prayed for in the Petition and shall also separately annex as exhibits, copies of such documents as are in English or where any such documents are not in English, typed copies of translations in English to such documents. Any translation other

1 . Substituted by Notification No. G/Amend/435/2021, dt. 12.05.2021.
2 . Sub-rule (2) and (3) deleted and existing sub-rules (4),(5),(6),(7), and (8) re-numbered as (2), (3),(4),(5) and (6) by G.N. of 25-11-1998, (1999 M.G.G. Pt. IV-C, p 1337).
3. These words and figures were figures were substituted for the word and figures “sub-rule (1) and (2)” by G.N. of 25-11-1998, (1999 M.G.G Pt. IV-C, p. 1337),
4. Sub-rule (2) and (3) deleted and existing sub-rules (4),(5),(6),(7), and (8) re-numbered as (2), (3),(4),(5) and (6) by G.N. of 25-11-1998, (1999 M.G.G. Pt. IV-C, p 1337).

TOP

than official translations annexed to the Petition shall be either certified to be true by the Advocate for the petitioner or supported by an affidavit of the petitioner affirming that the translations are true.

[1][(5)] An application under [2][sub-rule (1) (a) and 1(b)] above shall be by Petition setting out therein the relief sought and the grounds on which it is sought. The Petition shall be supported by an affidavit. In every such Petition the Petitioner shall state whether he has made any other application to the Supreme Court or the High Court in respect of the same matter and how that application has been disposed of. The petitioner shall move for a rule *nisi* in open Court.

[1][(6)] If the petitioner makes an application to the Supreme Court in respect of the same matter during the pendency of the petition in the High Court, he shall forthwith bring this fact to the notice of the High Court by filing an affidavit in the case and shall furnish a copy of such affidavit to the other side.

The Court may adjourn the hearing of the application made to it pending the decision of the Supreme Court in the matter.

637. Rule *Nisi* – The Court may either summarily dismiss the petition or order a rule *nisi* to be issued against the respondent, as it thinks fit. Any rule so granted shall be made returnable on such day as the Court may direct, but ordinarily it shall not be made returnable within less than fourteen days after service thereof on the respondent.

638. Deleted.

639. Interim Order – If the Court grant a rule, it may make such interim or interlocutory order in the case, either unconditionally or upon such terms and conditions as the Court thinks just, as the nature and circumstances of the case may require.

1 . Sub-rule (2) and (3) deleted and existing sub-rules (4),(5),(6),(7), and (8) re-numbered as (2), (3),(4),(5) and (6) by G.N. of 25-11-1998, (1999 M.G.G. Pt. IV-C, p 1337).
2 . These words were substituted by G. N. of 25-11-1998, (1999 M.G.G. Pt. IV-C, p. 1337)

TOP

640. Service of copy of petition and documents on Respondent when interim orders prayed for – (1) Where the petitioner desires to obtain interim orders (whether by way of injunction or stay or in any other manner), he shall furnish a copy of such petition including all documents in support of the plea for such interim orders to the party against whom such petition is filed or proposed to be filed. Such copies shall be furnished one clear day before the day on which application for interim order is made. The petitioner shall also by a notice inform the party against whom such petition is filed or proposed to be filed, the date and time when he desires to apply for interim orders and file in Court, an affidavit of having served such a notice and having furnished copies of documents as stated above.

(2) The Court may, for sufficient reasons, dispense with the requirements of sub-rule (1) above.

[1][(3) The provisions of Section 148-A of the Code of Civil Procedure, shall not be applicable to the Writ Petitions filed under Article 226 of the Constitution of India.]

641. Service of rule *nisi* - The rule *nisi* granted as above shall, along with a copy of the petition and of the order, if any, made under the last preceding rule, be served on the respondent in the manner prescribed for service of a writ of summons upon a defendant in a suit.

642. Answer to the petition – An answer to the petition shall be made by filing an affidavit in reply and serving a copy thereof upon the petitioner or his Advocate on record at least four days before the returnable date of the rule.

643. Service of rule on other parties – The Court may in its discretion, at any time before a final order is made on the application, order the rule *nisi* to be served on any person likely to be affected by any order which the Court may make in the matter. The provisions contained in the last two preceding rules relating to service of the petition and the rule *nisi* and the filing and service of an affidavit in reply shall apply to such a case.

644. The Court may allow outsider to appear in certain cases – If any person who is not a party to the proceeding desires to be heard on the application and it appears to the Court that

1 . Inserted by Notification No. P/3603/2021, dt. 12.05.2021.

TOP

he has a substantial interest in the dispute or the question to be decided therein and is a proper person to be heard, the Court may allow him to appear on such terms and conditions as it thinks proper. The Court may make such order with regard to costs occasioned by his appearance as the Court deems fit.

645. No further affidavits allowed – No further affidavit or affidavits shall be filed by any party, except with the leave of the Court.

646. Adjournment for examination of witnesses – If it appears to the Court that any material question of fact is in issue, the Court may allow oral testimony of witnesses to be taken and for that purpose may adjourn the hearing of the rule to some other date. In such a case either party may obtain summonses to witnesses, and the procedure in all other respects shall be similar to that followed in a suit.

647. Execution of orders - Every order made under this Chapter shall be executed, as if it were a decree made in the exercise of the Ordinary Original Civil Jurisdiction of this Court.

648. Costs of appeals may be quantified – The costs of appeals against order made under this chapter shall be in the discretion of the Court and the Court shall have power to quantify them.

[1]**[648-A. Provisions of Rules 986 and 133 to apply to application under this Chapter. –** The provisions of Rules 986 and 133 of these rules shall, *mutatis mutandis* apply to applications filed under this Chapter].

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1 . Rule 648A was inserted by G.N.No.G/Amend/4504 dated 22-06-1992, pub. In MG.G. Pt. IV-Ka, p. 386

TOP

CHAPTER XXXIV

RULE RELLATING TO REFERENCES UNDER THE LAND ACQUISITION ACT, 1894 (Act No. 1 of 1894)

649. Register of Land Acquisition References – A Register of Land Acquisition References shall be kept in which shall be entered all references filed under the Land Acquisition Act, 1894 (hereinafter in this chapter referred "the Act").

650. Collector to furnish postal address of parties – The Collector as defined in section 3 (c) of the Act shall, along with every reference under section 18 of the Act supply to the Prothonotary and Senior Master the postal addresses of all person on whom notices are required to be served under section 20 of the Act and in the case of a reference under section 30 of the Act the postal addresses of all persons interested in the apportionment.

651. Collector to file notices etc. - Along with every reference the Collector shall file notices in the appropriate form duly filled in and shall pay the Court-fees and postal charges payable for service of such notices.

652. Prothonotary to issue notices – Upon a reference being filed, the Prothonotary and Senior Master shall forthwith issue notices in Form No. 82 if the reference is under section 18 of the Act and in Form No. 83 if the reference is under section 30 of the Act.

653. Notices to be sent by registered post - Such notices shall be sent by registered post in the case of references under section 18 of the Act to all persons to whom notices are required to be sent under the provisions of section 20 of the Act, and in the case of references under section 30 of the Act to all persons interested, at the addresses supplied by the Collector.

654. Returnable date of notice under sections 18 and 30 – The returnable date of a notice in a reference under section 18 of the Act for compensation with or without apportionment shall be three months from the date of the issue of the notice; and the returnable date of a notice in case of any reference relating to apportionment only shall be one month from the date of the issue of the notice.

TOP

655. Application for order under section 32 of the Land Acquisition Act – An application for an order under section 32 of the Act shall ordinarily be made in Chambers to the Judge who shall have been appointed to hear land acquisition references, but the Judge may adjourn the application into Court if he thinks fit.

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TOP

CHAPTER XXXV

RULE RELATING TO REFERENCES AND APPLICATIONS UNDER SECTION 256 OF THE INCOME-TAX ACT, 1961(ACT No. 43 OF 1961.)

656. References to be sent to the Prothonotary and Senior Master [1][at Bombay, or the Additional Registrar of the respective Benches as the case may be] – All references under section 256 of the Income-tax Act, 1961 (hereinafter in this chapter referred to "as the Act") shall be forwarded to the Prothonotary and Senior Master, [1][*at Bombay, or the Additional Registrar of the respective Benches as the case may be*] and shall be dealt with on the Original Side of the High Court.

[1][Provided that References and Applications falling within the jurisdiction of Nagpur / Aurangabad / Panaji-Goa Benches of Bombay High Court shall be presented to the Additional Registrar of the Bombay High Court at Nagpur / Aurangabad / Panaji – Goa as the case may be and shall be disposed of by the Judges sitting at Nagpur / Aurangabad / Panaji-Goa.

Provided further that the Chief Justice may, in his discretion, order that, any case arising in the jurisdiction of the said Benches shall be heard at Bombay]

657. Notice of reference to party at whose instance reference is made - When the Appellate Tribunal refers a case to the High Court, it shall give notice of that fact to the party at whose instance the reference has been made and shall call upon him to take such steps in the office of the Prothonotary and Senior Master [1][*at Bombay, or the Additional Registrar of the respective Benches as the case may be*] as may be necessary for bringing the reference to a final conclusion.

658. Filing of statement of case, issuing notice and fixing date for the hearing – The party at whose instance a reference has been made shall file the statement of the case in the office of the Prothonotary and Senior Master [1][*at Bombay, or the Additional Registrar of the respective Benches as the case may be*] and shall forthwith take steps to bring the reference to

1 . These words were inserted by G.N. of 11-2-2000, IV-C, p. 86, M.G.G. Pt.- IV-C, dt. 02.03.2000.

TOP

a final conclusion. Such party shall apply to the Prothonotary and Senior Master [1][*at Bombay, or the Additional Registrar of the respective Benches as the case may be*] to issue notice and to fix a date for the hearing of the reference and shall serve the notice on the opposite party. If such party fails to take such steps for two months from the receipt of the reference in the High Court, the Prothonotary and Senior Master [1][*at Bombay, or the Additional Registrar of the respective Benches as the case may be*] may set down the reference on board for orders. The Court may pass such order on the reference as it may deem fit.

659. Preparation of Paper Book – The party at whose instance a reference has been made shall prepare the paper book which shall contain the Statement of the Case and other papers forwarded by the Appellate Tribunal. The paper book shall be typed or cyclostyled, but the Prothonotary and Senior Master [1][*at Bombay, or the Additional Registrar of the respective Benches as the case may be*] may, on the application of any party, direct that the paper book be printed. Two copies of the paper book shall be filed in the office of the Prothonotary and Senior Master [1][*at Bombay, or the Additional Registrar of the respective Benches as the case may be*] within two months from the date of the filling of the reference in the High court.

660. Failure to file Paper Books – In the event of non-compliance with the last preceding rule, the Prothonotary and Senior Master [1][*at Bombay, or the Additional Registrar of the respective Benches as the case may be*] may set down the reference on board for orders. The Court may pass such order on the reference as it may deem fit.

661. Application under sub-section (2) of section 256- An application under sub-section (2) of section 256 of the Act shall be presented to the Prothonotary and Senior Master [1][*at Bombay, or the Additional Registrar of the respective Benches as the case may be*]. Such application shall be by petition. There shall be annexed to such petition copies of the order and judgment, if any, of the Appellate Tribunal, and also of the relevant documents on which the applicant wants to rely in support of his application.

662. Placing of application before the Court – The Prothonotary and Senior Master [1][*at Bombay, or the Additional Registrar of the respective Benches as the case may be*] shall place such application before the Court on a day appointed by the Chief Justice. The Court may

1 . These words were inserted by G.N. of 11-2-2000, IV-C, p. 86, M.G.G. Pt.- IV-C, dt. 02.03.2000.

TOP

either reject the application summarily, or order a rule *nisi* to issue to show cause why the order applied for should not be made. The rule shall be made returnable on such date as the Court may direct.

663. Service of rule *nisi.* – The rule *nisi* together with a copy of the application shall be served on the opposite party i.e. on the assessee or the Commissioner of Income-tax, as the case may be, at least fourteen days before the returnable date of the rule.

664. Time for furnishing copies of application – On a rule *nisi* being issued, the applicant shall furnish to the office of the Prothonotary and Senior Master [1][*at Bombay, or the Additional Registrar of the respective Benches as the case may be*] two type-written or cyclostyled or printed copies to such application with all its annexures at least one week before the day fixed for the hearing of the rule.

665. Answer to rule *nisi*- Answer to rule *nisi* shall be made on affidavit and the same shall be filed at least four days before the returnable date of the rule *nisi.* Two copies of such affidavit shall be furnished to the office of the Prothonotary and Senior Maser [1][*at Bombay, or the Additional Registrar of the respective Benches as the case may be*].

666. A copy of the Court's Order and judgment to be sent to the Appellate Tribunal. - Where the rule *nisi* is made absolute, the Prothonotary and Senior Master [1][*at Bombay, or the Additional Registrar of the respective Benches as the case may be*] shall send a copy of the Court's Order and judgment, if any, to the Appellate Tribunal.

667. References and applications to be heard by a bench – Save as provided in rule 668, all references and applications under section 256 of the Act shall be heard by a bench of not less than two Judges appointed by the Chief Justice.

668. References and applications pursuant to Act XXX of 1947 – The rules contained in this chapter shall, with any necessary modifications, apply to all references and applications made under sections 256 of the Act pursuant to section 8, sub-section (5) of the Taxation on

1 . These words were inserted by G.N. of 11-2-2000, IV-C, p. 86, M.G.G. Pt.- IV-C, dt. 02.03.2000.

TOP

Income (Investigation Commission) Act, 1947 (Act XXX of 1947), save and except that all such references shall be heard by a bench of not less than three Judges of the High Court.

669. Rules in this chapter to apply to references and applications under section 66 of the Indian Income-tax Act, 1922 – The rules contained in this Chapter shall, with any necessary modifications, apply to all references and applications made under section 66 of the Indian Income-tax Act, 1922.

[1]**[669A. -** Subject to the provisions of section 260A of the Income Tax Act, 1961.

(i) An appeal shall lie to the High Court from every order passed in appeal by the Appellate Tribunal if the High Court is satisfied that the case involves a substantial question of Law.

(ii) An appeal under this sub-section shall be filed within 120 days from the date on which the order appealed against is communicated to the appellant.

(iii) An Appeal under section 260-A of the Income Tax Act, Precisely stating therein the substantial question of law involved, shall be filed against the decision of the Tribunal. The appellant shall annex to such Memorandum of Appeal, assessment order, Memorandum of Appeal to C.I.T. (Appeals), decision of C.I.T. (Appeals), Memorandum of Appeal to the Income Tax Appellate Tribunal as also the impugned decision of the Tribunal. As regards the Note of appearance and address for service is concerned, Rule 50 and 53 of the High Court (Original Side) Rules, 1980, shall apply to such Memorandum of Appeal.

(iv) The Memorandum of Appeal shall be accompanied by a requisite Court fee as prescribed under the Bombay Court Fees Act, 1959 (duly amended).

(v) Any appeal under this section, shall precisely state the substantial question of law involved in the appeal.

1 . Rule 669A and 669B was inserted by G.N. of 1.3.2001, M.G.G. Part IV-C, Pg. 33.

TOP

(vi) Where the High Court is satisfied that a substantial question of law is involved in the case, it shall formulate that question.

(vii) An appeal so filed shall be heard on the question so formulated and the respondent shall, at the hearing of the appeal be allowed to argue it, that the case does not involve such a question.

Provided that nothing in this sub-section shall be deemed to take away or abridge the power of the Court to hear, for reasons to be recorded the appeal on any other substantial question of law, not formulated by it, if it is satisfied that the case involves such question.

(viii) All memoranda of Appeal as provided in this section shall be presented to the Prothonotary and Senior Master, High Court, Bombay will accept and take on file the memorandum of appeal if sub-rule (iii) has been complied with and it appears to him to have been presented within time prescribed by law of limitation

(ix) If the memorandum of appeal is rejected by the Prothonotary and Senior Master, he shall endorse thereon the date of its presentation and rejection and shall if requested by the appellant, place if before the Appellate Court of orders.

(x) Application for the acceptance of a memorandum of appeal rejected by the Prothonotary and Senior Master shall be made to the Appellate Court at the earliest opportunity.

(xi) The Appellate Court on hearing such applications shall accept or reject the memorandum of appeal with or without notice to the other side. If accepted, it shall be accepted as of the date of its presentation to the Prothonotary and Senior Master.

TOP

(xii) Every application of leave to appeal as an indigent person shall be made by petition, setting out concisely in separate paragraphs the fact. A schedule of the petitioner's Property shall be annexed thereto. The petition shall be presented to the Prothonotary and Senior Master, who will ascertain whether it has been presented within the prescribed period, by the law of limitation and whether the provisions of the Code of Civil Procedure with respect to such applications have been complied with. If the Petition has been presented within the prescribed period and the provisions of the Code of Civil Procedure have been complied with. the Prothonotary and Senior Master shall endorse on the petition the date of its presentation and place it with necessary papers before the Appellate Court for disposal.

(xiii) The Appellate Court may accept the petition and allow the petitioner to appeal as an indigent person, subject to an inquiry into his claim that he is an indigent person in the manner provided for such inquiry when a person applies for leave to sue as an indigent person :

Provided that if the petitioner was allowed to sue or defend as an indigent person, no further inquiry in respect of claim that he is an indigent person shall be unless the Appellate Court sees cause to direct such an inquiry.

(xiv) The appellant shall apply and take out and serve notice of the appeal on the respondent within 15 days from the date of the Order directing notice to issue on the respondent, unless otherwise ordered. On his failing to do so, the Prothonotary and Senior Master may set down appeal on the board for dismissal.

(xv) The Appellant shall on the acceptance of his memorandum of appeal apply to the Prothonotary and Senior Master for a copy of the notes of evidence and other necessary documents and shall prepare the appeal paper book without delay.

(xvi) The Appellant shall prepare and lodge in the office of the Prothonotary and Senior Master within fifteen days from the service of the notice of appeal, an

TOP

index of the documents to be included in the appeal paper book and shall apply to the Prothonotary and Senior Master to appoint a time to settle the index. Notice of time so appointed shall be given by the appellant to the respondent of his Advocate on record.

(xvii) The Prothonotary and Senior Master shall settle the index and shall decided how many copies of the appeal paper book shall be prepared by the appellant.

(xviii) if a part is not satisfied with the index as settled by the Prothonotary and Senior Master, he may apply to the Judge in Chambers.

669B. The Memorandum of Appeal shall always be in duplicate, where the appeal is from the order of the Income-tax Appellate, it shall ordinarily contain such of the documents specified in sub-rule (iii) of the Rule 669-A.]

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TOP

CHAPTER XXXVI

RULE RELATING TO REFERENCES AND APPLICATIONS UNDER SECTION 27 OF THE WEALTH-TAX ACT, 1957 (ACT No. 27 OF 1957)

670. References to be sent to the Prothonotary and Senior Master [1]**[*at Bombay, or the Additional Registrar of the respective Benches as the case may be*] –** All references under section 27 of the Wealth-tax Act, 1957, (hereinafter in this chapter referred to as "the act") shall be forwarded to the Prothonotary and Senior Master [1][*at Bombay, or the Additional Registrar of the respective Benches as the case may be*] and shall be dealt with on the Original Side of the High Court.

[1][Provided that References and Applications falling within the jurisdiction of Nagpur/Aurangabad/Panaji-Goa Benches of Bombay High Court shall be presented to the Additional Registrar of the Bombay High Court at Nagpur/Aurangabad/Panaji-Goa as the case may be and shall be disposed of by the Judges sitting at Nagpur/Aurangabad/Panaji-Goa.

Provided further that the Chief Justice may, in his discretion, order that, any case arising in the jurisdiction of the said Benches shall be heard at Bombay]

671. Notice of reference to party at whose instance the reference is made. – When the Appellate Tribunal refers a case to the High Court, it shall give notice of that fact to the party at whose instance the reference has been made, and shall call upon him to take such steps in the office of the Prothonotary and Senior Master [1][*at Bombay, or the Additional Registrar of the respective Benches as the case may be*] as may be necessary for bringing the reference to a final conclusion.

672. Filing statement of case issuing notice and fixing date for the hearing – The party at whose instance a reference has been made shall file the statement of the case in the office of the Prothonotary and Senior Master [1][*at Bombay, or the Additional Registrar of the respective Benches as the case may be*] and shall forthwith take steps to bring the reference to

1 . These words were inserted by G.N. of 11-02-2000, Pt. IV-C, p. 87, M.G.G. Pt. IV-C, dt 2.3.2000.

TOP

a final conclusion. Such party shall apply to the Prothonotary and Senior Master [1][*at Bombay, or the additional Registrar of the respective Benches as the case may be*] to issue notice and to fix a date for the hearing of the reference and shall serve the notice on the opposite party. If such party fails to take such steps for two months from the receipt of the reference in the High Court, the Prothonotary and Senior Master [1][*at Bombay, or the Additional Registrar of the respective Benches as the case may be*] may set down the reference on the board for orders. The Court may pass such order on the reference as it may deem fit.

673. Preparation of Paper Book – The party at whose instance a reference has been made shall prepare the paper book which shall contain the statement of the case and other papers forwarded by the Appellate Tribunal. The paper book shall be typed or cyclostyled, but the Prothonotary and Senior Master [1][*at Bombay, or the Additional Registrar of the respective Benches as the case may be*] may, on the application of any party, direct that the paper book be printed. Two copies of the paper book shall be filed in the office of the Prothonotary and Senior Master [1][*at Bombay, or the Additional Registrar of the respective Benches as the case may be*] within two months from the date of the filing of the reference in the High Court.

674. Failure to file Paper Books – In the event of non-compliance with the last preceding rule, the Prothonotary and Senior Master [1][*at Bombay, or the Additional Registrar of the respective Benches as the case may be*] may set down the reference on board for orders. The Court may pass such order on the reference as it may deem fit.

675. Application under section 27(3) – An application under sub- section (3) of section 27 of the Act shall be presented to the Prothonotary and Senior Master [1][*at Bombay, or the Additional Registrar of the respective Benches as the case may be*]. Such application shall be by petition. There shall be annexed to such petition copies of the order and judgment, if any, or the Appellate Tribunal, and also of the relevant documents on which the applicant wants to rely in support of his application.

676. Placing of application before the Court – The Prothonotary and Senior Master [1][*at Bombay, or the Additional Registrar of the respective Benches as the case may be*] shall place such application before the Court on a day appointed by the Chief Justice. The Court may

1 . These words were inserted by G.N. of 11-02-2000, Pt. IV-C, p. 87, M.G.G. Pt. IV-C, dt 2.3.2000.

TOP

either reject the application summarily or order a rule *nisi* to issue a show cause why the order applied for should not be made. The rule shall be made returnable on such date as the Court may direct.

677. Service of rule *nisi* – The rule *nisi* together with a copy of the application shall be served on the opposite party i.e. on the assessee or the Commissioner of Wealth-tax, as the case may be, at least fourteen days before the returnable date of the rule.

678. Time for furnishing copies of application – On a rule *nisi* being issued, the applicant shall furnish to the office of the Prothonotary and Senior Master [1]**[***at Bombay, or the Additional Registrar of the respective Benches as the case may be*] two typewritten or cyclostyled or printed copies of such application with all its annexures at least one week before the day fixed for the hearing of the rule.

679. Answer to rule *nisi* – Answer to the rule *nisi* shall be made on affidavit and the same shall be filed at least four days before the returnable date of the rule *nisi.* Two copies of such affidavit shall be furnished to the office of the Prothonotary and Senior Master [1][*at Bombay, or the additional Registrar of the respective Benches as the case may be*]

680. Copy of the Court's Order and judgment to be sent to the Appellate Tribunal. – Where the rule nisi is made absolute, the Prothonotary and Senior Master [1][*at Bombay, or the Additional Registrar of the respective Benches as the case may be*] shall send a copy of the Court's Order and judgment, if any, to the Appellate Tribunal.

681. References and applications to be heard by a bench – All references and applications under section 27 of the Act shall be heard by a bench of not less than two Judges appointed by the Chief Justice.

[2]**[681A –** Subject to the provisions of section 27A of the Wealth Tax Act, 1957

1 . These words were inserted by G.N. of 11-02-2000, Pt. IV-C, p. 87, M.G.G. Pt. IV-C, dt 2.3.2000.
2 . Rule 681A and 681B was inserted by G.N. of 1-3-2001, M.G.G. Pt.IV-C, p. 36.

TOP

(i) An Appeal shall lie to the High Court from every order passed in Appeal by the Appellate Tribunal, if the High Court is satisfied that the case involves a substantial question of law.

(ii) Rule 669A shall apply to all Memoranda of Appeal preferred under section 27A of the Wealth Tax Act, 1957 mutatis mutandis.

681B - The Memoranda of Appeal shall always be in duplicate, where the appeal is from order of the Income Tax Appellate Tribunal and shall contain such of the documents as specified in sub-rule (iii) of Rule 669A.]

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TOP

CHAPTER XXXVII

RULES RELATING TO REFERENCES AND APPLICATIONS UNDER SECTION 64 OF THE ESTATE DUTY ACT, 1953 (ACT No. 34 OF 1953)

682. Reference to be sent to the Prothonotary and Senior Master [1]**[*at Bombay, or the Additional Registrar of the respective Benches as the case may be*] –** All references under section 64 of the Estate Duty Act, 1953 (hereinafter in this chapter referred to as "the Act") shall be forwarded to the Prothonotary and Senior Master [1][*at Bombay, or the Additional Registrar of the respective Benches as the case may be*] and shall be dealt with on the Original Side of the High Court.

[1][Provided that References and Applications falling within the jurisdiction of Nagpur/Aurangabad/Panaji-Goa Benches of Bombay High Court shall be presented to the Additional Registrar of the Bombay High Court at Nagpur/Aurangabad/Panaji-Goa as the case may be and shall be disposed of by the Judges sitting at Nagpur/Aurangabad/Panaji-Goa.

Provided further that the Chief Justice may, in his discretion, order that, any case arising in the jurisdiction of the said Benches shall be heard at Bombay]

683. Notice of reference to party at whose instance reference is made. – When the Appellate Tribunal refers a case to the High Court, it shall give notice of that fact to the party at whose instance the reference has been made, and shall call upon him to take such steps in the office of the Prothonotary and Senior Master [1][*at Bombay, or the Additional Registrar of the respective Benches as the case may be*] as may be necessary for bringing the reference to a final conclusion.

684. Filing statement of case, issuing notice and fixing date for the hearing – The party at whose instance a reference has been made shall file the statement take steps to bring the reference to a final conclusion. Such party shall apply to the Prothonotary and Senior Master [1][*at Bombay, or the Additional Registrar of the respective Benches as the case may be*] to issue notice and to fix a date for the hearing of the reference and shall serve the notice on the

1. These words were inserted by G.N. of 11-02-2000, Pt. IV-C, p. 87, M.G.G. Pt. IV-C, dt 2.3.2000.

TOP

opposite party. If such party fails to take such steps for two month from the receipt of the reference in the High Court, the Prothonotary and Senior Master [1][*at Bombay, or the Additional Registrar of the respective Benches as the case may be*] may set down the reference on board for orders. The Court may pass such order on the reference as it may deem fit.

685. Preparation of Paper Book – The party at whose instance a reference has been made shall prepare the book which shall contain the statement of the case and other papers forwarded by the Appellate Tribunal. The paper book shall be typed or cyclostyled, but the Prothonotary and Senior Master [1][*at Bombay, or the Additional Registrar of the respective Benches as the case may be*] may, on the application of any party, direct that the paper book be printed. Two copies of the paper book shall be filed in the office of the Prothonotary and Senior Master [1][*at Bombay, or the Additional Registrar of the respective Benches as the case may be*] within two months from the date of the filing of the reference in the High court.

686. Failure to file Paper Books – In the event of non-compliance with the last preceding rule, the Prothonotary and Senior Master [1][*at Bombay, or the Additional Registrar of the respective Benches as the case may be*] may set down the reference on board for orders, The Court may pass such order on the reference as it may deem fit.

687. Application under Section 64(3) – An application under sub-section (3) of section 64 of the Act shall be presented to the Prothonotary and Senior Master [1][*at Bombay, or the Additional Registrar of the respective Benches as the case may be*]. Such application shall be by petition. There shall be annexed to such petition copies of the order and judgment, if any, of the Appellate Tribunal and also of the relevant documents on which the applicant wants to rely in support of his application

688. Placing of application before the Court – The Prothonotary and Senior Master [1][*at Bombay, or the Additional Registrar of the respective Benches as the case may be*] shall place such application before the Court on a day appointed by the Chief Justice. The Court may either reject the application summarily, or order a rule *nisi* to issue to show cause why the

1. These words were inserted by G.N. of 11-02-2000, Pt. IV-C, p. 87, M.G.G. Pt. IV-C, dt 2.3.2000.

TOP

order applied for should not be made. The rule shall be made returnable on such date as the Court may direct.

689. Service of Rule *Nisi-* The Rule *nisi* together with a copy of the application shall be served on the opposite party i.e., on the person accountable or the controller, as the case may be, at least fourteen days before the returnable date of the rule.

690. Time for furnishing copies of application – On a rule *nisi* being issued, the applicant shall furnish to the office of the Prothonotary and Senior Master [1][*at Bombay, or the Additional Registrar of the respective Benches as the case may be*] two typewritten or cyclostyled or printed copies of such application with all its annexures at least one week before the day fixed for the hearing of the rule.

691. Answer to rule *nisi* – Answer to rule *nisi* shall be made on affidavit and the same shall be filed at least four days before the returnable date of the rule *nisi.* Two copies of such affidavit shall be furnished to the office of the Prothonotary and Senior Master [1][*at Bombay, or the Additional Registrar of the respective Benches as the case may be*].

692. Copy of the Court's order and judgment to be sent to the Appellate Tribunal – Where the rule *nisi* is made absolute, the Prothonotary and Senior Master [1][*at Bombay, or the Additional Registrar of the respective Benches as the case may be*] shall send a copy of the Court's Order and Judgment, if any, to the Appellate Tribunal.

693. References and applications to be heard by a bench – All references and applications under section 64 of the Act shall be heard by a bench of not less than two Judges appointed by the Chief Justice.

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1. These words were inserted by G.N. of 11-02-2000, Pt. IV-C, p. 87, M.G.G. Pt. IV-C, dt 2.3.2000.

TOP

CHAPTER XXXVIII

RULES RELATING TO REFERENCES AND APPLICATIONS UNDER SECTION 26 OF THE GIFT – TAX, ACT, 1958 (ACT No. 18 OF 1958)

694. References to be sent to the Prothonotary and Senior Master [1][*at Bombay, or the Additional Registrar of the respective Benches as the case may be*] – All references under section 26 of the Gift-Tax Act, 1958 (hereinafter in this chapter referred to as "the Act") shall be forwarded to the Prothonotary and Senior Master [1][*at Bombay, or the Additional Registrar of the respective Benches as the case may be*] and shall be dealt with on the Original Side of the High Court.

[1][Provided that References and Applications falling within the jurisdiction of Nagpur/Aurangabad/Panaji-Goa Benches of Bombay High Court shall be presented to the Additional Registrar of the Bombay High Court at Nagpur/Aurangabad/Panaji-Goa as the case may be and shall be disposed of by the Judges sitting at Nagpur/Aurangabad/Panaji-Goa.

Provided further that the Chief Justice may, in his discretion, order that, any case arising in the jurisdiction of the said Benches shall be heard at Bombay]

695. Notice of reference to party at whose instance the reference is made – When the Appellate Tribunal refers a case to the High Court, it shall give notice of that fact to the party at whose instance the reference has been made and shall call upon him to take such steps in the office of the Prothonotary and Senior Master [1][*at Bombay, or the Additional Registrar of the respective Benches as the case may be*] as may be necessary for bringing the reference to a final conclusion.

696. Filing statement of case, issuing notice and fixing date for the hearing – The party at whose instance a reference has been made shall file the statement of the case in the office of the Prothonotary and Senior Master [1][*at Bombay, or the Additional Registrar of the respective Benches as the case may be*] and shall forthwith take steps to bring the reference to

1. These words were inserted by G.N. of 11-02-2000, Pt. IV-C, p. 87, M.G.G. Pt. IV-C, dt 2.3.2000.

TOP

a final conclusion. Such party shall apply to the Prothonotary and Senior Master [1][*at Bombay, or the Additional Registrar of the respective Benches as the case may be*] to issue notice and to fix a date for the hearing of the reference and shall serve the notice on the opposite party. If such party fails to take such steps for two months from the receipt of the reference in the High Court, the Prothonotary and Senior Master [1][*at Bombay, or the Additional Registrar of the respective Benches as the case may be*] may set down the reference on board for orders. The Court may pass such order on the reference as it may deem fit.

697. Preparation of Paper Book – The party at whose instance a reference has been made shall prepare the paper book which shall contain the statement of the case and other papers forwarded by the Appellate Tribunal. The paper book shall be typed or cyclostyled, but the Prothonotary and Senior Master [1][*at Bombay, or the Additional Registrar of the respective Benches as the case may be*] may, on the application of any party, direct that the paper book be printed. Two copies of the paper book shall be filed in the office of the Prothonotary and Senior Master [1][*at Bombay, or the Additional Registrar of the respective Benches as the case may be*] within two months from the date of filing of the reference in the High Court.

698. Failure to file Paper Books – In the event of non-compliance with the last preceding rule, the Prothonotary and Senior Master [1][*at Bombay or the Additional Registrar of the respective Benches as the case may be*] may set down the reference on board for orders. The Court may pass such order on the reference as it may deem fit.

699. Application under section 26(3). – An application under sub-section (3) of section 26 of the Act shall be presented to the Prothonotary and Senior Master [1][*at Bombay, or the Additional Registrar of the respective Benches as the case may be*]. Such application shall be by petition. There shall be annexed to such petition copies of the order and judgment, if any, of the Appellate Tribunal and also of the relevant documents on which the applicant wants to rely in support of his application.

700. Placing of application before the Court.- The Prothonotary and Senior Master [1][*at Bombay, or the Additional Registrar of the respective Benches as the case may be*] shall place

1 .These words were inserted by G.N. of 11-02-2000, Pt. IV-C, p. 87, M.G.G. Pt. IV-C, dt 2.3.2000.

TOP

such application before the Court on a day appointed by the Chief Justice. The Court may either reject the application summarily or order a rule *nisi* to issue to show cause why the order applied for should not be made. The rule shall be made returnable on such date as the Court may direct.

701. Service of rule *nisi*- The rule *nisi* together with a copy of the application shall be served on the opposite party i.e. on the assessee or the Commissioner of Gift Tax, as the case may be, at least fourteen days before the returnable date of the rule.

702. Time for furnishing copies of application – On a rule *nisi* being issued, the applicant shall furnish to the office of the Prothonotary and Senior Master [1][*at Bombay, or the Additional Registrar of the respective Benches as the case may be*] two typewritten or cyclostyled or printed copies of such application with all its annexures at least one week before the day fixed for the hearing of the rule.

703. Answer to rule *nisi* – Answer to the rule *nisi* shall be made on affidavit and the same shall be filed at least four days before the returnable date of the rule *nisi*. Two copies of such affidavit shall be furnished to the office of the Prothonotary and Senior Master [1][*at Bombay, or the Additional Registrar of the respective Benches as the case may be*].

704. Copy of the Court's Order and Judgment to be sent to the Appellate Tribunal – Where the rule *nisi* is made absolute, the Prothonotary and Senior Master [1][*at Bombay, or the Additional Registrar of the respective Benches as the case may be*] shall send a copy of the Court's Order and Judgment, if any, to the Appellate Tribunal.

705. References and applications to be heard by a bench - All references and applications under section 26 of the Act shall be heard by a bench of not less than two Judges appointed by the Chief Justice.

[2]**[705A –** Subject to the provisions of section 26 of the Gift Tax Act, 1958 and section 27A of the Wealth Tax Act, 1957 (as far as it is applicable to the matters under the Gift Tax Act)-

1 .These words were inserted by G.N. of 11-02-2000, Pt. IV-C, p. 87, M.G.G. Pt. IV-C, dt 2.3.2000.
2. Inserted by G.N. No. G/Amend/2407, dated 1-3-2001, M.G.G. Pt. IV-C, p. 29

TOP

(i) An appeal shall lie to the High Court from every Order passed in Appeal by the Appellate Tribunal, if the High Court is satisfied that the case involves a substantial question of law.

(ii) Rule 669-A shall apply to all Memoranda of Appeal preferred under section 26 of the Gift Tax Act, 1958 mutatis mutandis.

705B – The Memorandum of Appeal shall always been in duplicate, where the appeal is from Order of the Appellate Tribunal and shall contain such of the documents as specified in sub-rule (iii) or Rule 669-A.]

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TOP

CHAPTER XXXIX

RULE RELATING TO REFERENCES AND APPLICATIONS UNDER SECTION 61 OF THE BOMBAY SALES TAX ACT, 1959

706. References to be sent to the Prothonotary and Senior Master [1][at Bombay or the Additional Registrar of the respective Benches as the case may be] – All references under section 61 of the Bombay Sales Tax Act, 1959, (hereinafter in this chapter referred to as "the Act") shall be forwarded to the Prothonotary and Senior Master [1][at Bombay or the Additional Registrar of the respective Benches as the case may be] and shall be dealt with on the Original Side of the High Court.

[1][Provided that References and applications fallings within the jurisdiction of Nagpur/Aurangabad/Panaji-Goa Benches of Bombay High Court shall be presented to the Additional Registrar of the Bombay High Court at Nagpur/Aurangabad/Panaji-Goa shall be disposed of by the Judges sitting at Nagpur/Aurangabad/Panaji-Goa

Provided further that the Chief Justice may, in his discretion order that any case arising in the jurisdiction of the said Benches shall be heard at Bombay.]

707. Notice of reference to party at whose instance reference is made - When the Maharashtra Sales Tax Tribunal refers a case to the High Court, it shall give notice of that fact to the party at whose instance the reference has been made and shall call upon him to take such steps in the office of the Prothonotary and Senior Master [1][*at Bombay, or the Additional Registrar of the respective Benches as the case may be*] as may be necessary for bringing the reference to a final conclusion

708. Filing statement of case, issuing notice and fixing date for the hearing - The party at whose instance a reference has been made shall file the statement of the case in the office of the Prothonotary and Senior Master [1][*at Bombay, or the Additional Registrar of the respective Benches as the case may be*] and shall forth with take steps to bring the reference to final conclusion. Such party shall apply to the Prothonotary and Senior Master [1][*at*

1. These words inserted by G.N. of 11.2.2000, Part IV-C, Pg.87, M.G.G. Part IV-C.

TOP

Bombay, or the Additional Registrar of the respective Benches as the case may be] to issue notice and to fix a date for the hearing of the reference and shall serve the notice on the opposite party. If such party fails to take such steps for two months from the receipt of the reference in the High Court, the Prothonotary and Senior Master [1][*at Bombay, or the Additional Registrar of the respective Benches as the case may be*] may set down the reference on board for orders. The court may pass such order on the reference as it may deem fit.

709. Preparation of paper book – The party at whose instance a reference has been made shall prepare the paper book which shall contain the statement of the case and other papers forwarded by the Tribunal. The paper book shall be typed or cyclostyled, but the Prothonotary and Senior Master [1][*at Bombay, or the Additional Registrar of the respective Benches as the case may be*] may, on the application of any party, direct that the paper book be printed. Two copies of the paper book shall be filed in the office of the Prothonotary and Senior Master [1][*at Bombay, or the Additional Registrar of the respective Benches as the case may be*] within two months from the date of the filing of the reference in the High Court.

710. Failure to file Paper Books – In the event of non-compliance with the last preceding rule, the Prothonotary and Senior Master [1][*at Bombay, or the Additional Registrar of the respective Benches as the case may be*] may set down the reference on board for orders. The Court may pass such orders on the reference it may deem fit.

711. Application to the High Court under Section 61 (1) – An application to the High Court under sub-section (1) of section 61 of the Act shall be presented to the Prothonotary and Senior Master [1][*at Bombay, or the Additional Registrar of the respective Benches as the case may be*]. Such application shall be by petition. There shall be annexed to such petition copies of the order and judgment, if any, of the Tribunal, and also of the relevant documents on which the applicant wants to rely in support of his application.

712. Placing of application before the Court – The Prothonotary and Senior Master [1][*at Bombay, or the Additional Registrar of the respective Benches as the case may be*] shall place such application before the Court on a day appointed by the Chief Justice. The Court may

1. These words inserted by G.N. of 11.2.2000, Part IV-C, Pg.87, M.G.G. Part IV-C.

TOP

either reject the application summarily or order a rule *nisi* to issue to show cause why the order applied for should not be made. The rule shall be made returnable on such date as the Court may direct.

713. Service of rule *nisi* – The rule *nisi* together with a copy of the application shall be served on the opposite party i.e. on the assessee or the Commissioner of Sale Tax, as the case may be, at least fourteen days before the returnable date of the rule.

714. Time for furnishing copies of application – On a rule *nisi* being issued, the applicant shall furnish to the office of the Prothonotary and Senior Master [1][*at Bombay, or the Additional Registrar of the respective Benches as the case may be*] two typewritten or cyclostyled or printed copies of such application with all its annexures at least one week before the day fixed for the hearing of the rule.

715. Answer to rule *nisi* – Answer to the rule *nisi* shall be made on affidavit and the same shall be filed at least four days before the returnable date of the rule *nisi*. Two copies of such affidavit shall be furnished to the office of the Prothonotary and Senior Master [1][*at Bombay, or the Additional Registrar of the respective Benches as the case may be*].

716. Copy of the Court's order and judgment to be sent to the Tribunal – Where the rule *nisi* is made absolute, the Prothonotary and Senior Master [1][*at Bombay, or the Additional Registrar of the respective Benches as the case may be*] shall send a copy of the Court's order and judgment, if any, to the Tribunal.

717. Reference and applications to be heard by a bench – All references and applications under section 61 of the Act shall be heard by a bench of not less than two Judges appointed by the Chief Justice.

718. Chapter to apply to references and applications under section 34 of the Bombay Sales Tax Act, 1953 – The rules contained in this chapter shall, with any necessary modifications, apply to all references and applications of the Bombay Sale Tax Act, 1953.

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1 .These words were inserted by G.N. of 11-02-2000, Pt. IV-C, p. 87, M.G.G. Pt. IV-C, dt 2.3.2000.

TOP

CHAPTER XL

RULES UNDER THE BANKING REGULATIONS ACT, 1949
(ACT No. 10 OF 1949)

719. Application relating to Banking Companies within Greater Bombay – An application under Part III-A of the Banking Regulation Act, 1949, (hereinafter in this Chapter referred to as "the Act") in respect of a Banking Company having its registered office, or in the case of a Company incorporated outside India, its principal place of business, within the State of Maharashtra excluding the districts of Akola, Amravati, Bhandara, Buldana, Chandarpur, Nagpur, Wardha and Yawatmal shall be filed in the Office of the Prothonotary and Senior Master.

720. General Headings – An application under Part III or Part III-A of the Act shall be intituled 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.

721. Presentation and hearing of petitions under Part III or Part 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 presented to the Judge taking company winding up matters or to such other Judge as the 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 person as may seem to him likely to be affected by the proceedings.

722. Notice of petition – Where 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.

723. General duties and power of the Special Officer – Without prejudice to the generality of the powers of the Court under section 37(3) of the Act:-

TOP

(a) A Special Officer appointed under section 37(3) of the Act shall furnish security such amount as may be ordered by the Court.

(b) He shall generally have all the powers and shall take all the steps 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 Officer.

(d) The Special Officer may apply to the Court of 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. The said remuneration 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 expires or until the Banking Company resumes business or until a Liquidator is duly appointed to wind-up the business of the Banking Company.

724. 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.

725.Application 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.

726. Notice of petition - Petitions mentioned in the last preceding rule shall be presented 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. The Judge shall direct

TOP

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.

727. Affidavit in answer – An answer to the petition mentioned in rule 725 shall be made by filing an affidavit and a copy thereof shall be furnished to the petitioner or his Advocate on record at least four clear days before the returnable date of the notice.

728. Directions at the hearing of the petition – 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.

729. 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 times 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 inquiry whether or not the suits and proceedings mentioned in the repot should be transferred to the High Court. The notice shall contain particulars of the suit or proceedings 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.

730. Affidavit in reply – Any party desiring to oppose the transfer to the suit or proceedings to the High Court shall file an affidavit and furnish a copy thereof to the Official Liquidator or his Advocate on record at least four clear days before the returnable date of the notice.

731. When proceedings not transferred, Court may request expedition of the same – If any suit or proceedings pending in any Court is not transferred to the High Court under section 45-C(23) , 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 direct the Prothonotary and Senior Master to write a letter of request to the Court in which the suit

TOP

or proceeding is pending, requesting that suit or proceeding may be disposed of as expeditiously as possible.

732. 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 tie being 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.

733. Service of notice – Service of notice upon the debtors 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 residence and unless otherwise ordered by the Court such notice shall be deemed to be 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.

734. 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 Advocate on record at least seven clear days before the day appointed for the settlement of the list.

735. Settlement of the list of debtors – On the date fixed for settlement of the list of debtors, the Judge may settle the list or such part thereof as he may think proper. If the Judge is of opinion that it is not immediately possible to adjudicate upon any particular debt mentioned in the list, he may give such directions as he 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 Judge may in a special case refer the Official Liquidator to a regular suit.

TOP

736. 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 reason for doubting the correctness of such entry; and if, upon such report the Judge is satisfied that there is *prima facie* reason for doubting the correctness of the entry, the Judge may cause notice to be given to the depositor concerned to come in and prove his claim.

737. Register of suits in winding up matters - Suit 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 Prothonotary and Senior Master 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 Prothonotary and Senior Master a list of such suits.

738. Hearing of suits and matters – All suits referred to in the preceding 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 of the Banking Company or by such other Judge as the Chief Justice may direct.

739. Procedure in such suits – Where the suit is filed as a summary suits, the procedure prescribed for summary suits shall be followed. In all other cases, the suits shall be filed as an ordinary suit and the procedure laid down for such suits shall be followed.

740. 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 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 or of the High Court in the Matter of the banking company, and such permission may be granted by the Judge in his discretion.

TOP

741. Recovery of dues as arrears of land 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 arrears of land revenue.

742. Supervision of the carrying out of compromise or arrangement – Where an order under section 153 of the Indian Companies Act, 1913 (Act VII of 1913), or under section 391 of the Companies Act, 1956 (Act 1 of 1956) sanctioning a compromise or arrangement in respect of a Banking Company is passed, the Judge may direct the Official Liquidator or any other person to supervise the carrying out of the compromise or arrangement and to make a report to the Court in regard thereto.

743. These rules to be in addition to Companies (Court) Rules of the Supreme Court – These rules shall be in addition to and not in derogation of companies (Court) Rules, 1959, framed by the Supreme Court of India.

CIVIL APPEALS

744. Appeals to the High Court to be heard by Division Bench - (a) Subject to the provision of section n45-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

745. Period within which appeal should be filed – The appeal shall be filed within thirty days from the date of the decree or order appealed from.

746. Appeals - Rules relating to appeals contained in Part II, Chapter LII shall, with any necessary modification, apply to appeals under section 45-N(1) of the Act

TOP

CRIMINAL COMPLAINTS

747. 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 to such Judge as the Chief Justice may direct. On presentation of the complaint the Judge may direct a summons or a bailable or non-bailable warrant to be issued against the accused and may fix a date for the trial, or may, if he thinks fit. Postpone the issue of process and direct an inquiry or investigation to be made by the Commissioner of Police or by such other person as he thinks fit, or may dismiss the complaint.

748. Process in criminal cases – All complaints shall be filed in the office of the Prothonotary and Senior Master and all process shall issue from his office.

749. What offences to be tried summarily – Offences punishable under the Indian Companies Act, 1913 (Act VII of 1913) or under the companies Act, 1956 (Act I of 1956) or under the Banking Regulation Act, 1949 (Act X of 1949) with imprisonment for a term which does not exceed two years or with fine which does not exceed one thousand rupees may be tried in a summary way.

An offence triable under section 45-J(2) of the Act jointly with the offences mentioned in this rule may also be tried summarily, provided that it is punishable with imprisonment for a term which does not exceed two years or with fine which does not exceed one thousand rupees.

750. Procedure in summary trials – (1) 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 case 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.

TOP

(2) Procedure in non-summary trials – Where the offence 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.

751. Bail – The Court may at any time grant bail to the accused on such terms as it thinks proper.

752. 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 along with him at the same trial:

Provided that –

(a) he shall not be called or examined as a witness except with his consent;

(b) his failure to give evidence shall not be made the subject of any comment by the prosecution nor give rise to any presumption against himself or any person charged along 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 question 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.

TOP

753. Compounding of offences – All offences triable under Part III-A of the Act may be compounded with the leave of the Court.

CRIMINAL APPEALS

754. Appeal against conviction - (a) Any person convicted on a trial held by the High Court in the exercise of its jurisdiction under section 45-J of the Act may appeal to the High Court–

(i) against the conviction on any ground of appeal which involves a question 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 question of fact only or mixed question of law and fact, or any other ground which appears to the Appellate Court to be a sufficient ground of appeal; and

(ii) with the leave of the Appellate Court, against the sentence passed unless the sentence is one fixed by law.

Appeal against acquittal – (b) The Official Liquidator may appeal to the High Court against any order of acquittal on any ground of appeal which involves a question of law only.

755. Period of limitation – An appeal under the last preceding rule shall be filed within thirty days from the date of the order appealed from.

756. 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.

757. Appeals to be filed with the Prothonotary and Senior Master – Appeals shall be filed in the office of the Prothonotary and Senior Master.

TOP

758. 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 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.

759. Procedure on presentation of appeal – On presentation of an appeal, the date of such presentation shall be marked thereon, and if it is within time it shall be accepted and entered in the register of appeals to be kept for the purpose. When an appeal appears to the Prothonotary and Senior Master to be beyond time, it shall be returned to the party or his Advocate, unless the party or his Advocate applies that it be placed before the Court for orders. An application for excusing the delay in presenting the appeal may be made to the Prothonotary and Senior Master within a fortnight of the date of such return, and such application shall be placed before the Court for orders.

760. Admission of appeals – Applications referred to in the preceding rule, together with the memorandum of appeal in question and appeals which have been accepted by the Prothonotary and Senior Master being within time, shall be placed for admission before a Division Bench constituted by the Chief Justice and composed of not less than two Judges excluding the Judge by whom the original trial was held.

761. Application for bail in appeals – Application for bail shall ordinarily be made to the Appellate Court at the time of admission. The provisions of rules 980 and 982 to 984 shall, with any necessary modifications, apply to such applications.

762. Application for notes of evidence - Upon admission of an appeal, the appellant shall apply with due diligence for a certified copy to the notes of evidence and of the requisite documentary exhibits, and shall pay the usual charges, unless the Prothonotary and Senior Master in his discretion thinks fit to dispense with such payment in whole or in part.

763. Paper books to be prepared by appellant and to be typed or cyclostyled – The appeal paper books shall be prepared by the appellant and shall be typed or cyclostyled, but

TOP

the Prothonotary and Senior Master may, on the application of any party, direct the paper books to be printed.

764. Paper books to be typed or cyclostyled on durable foolscap paper – When an appeal paper book is typed or cyclostyled, it shall be legibly typed or cyclostyled on durable foolscap paper or other paper similar to it in size and quality and with an inner margin of about three and a half centimeters wide. It shall be typed or cyclostyled on both sides on each leaf with double spacing.

765. Style and size of appeal paper book when printed – When the appeal paper book is directed to be printed, it shall be printed in accordance with the following directions:-

(a) The paper book shall be printed in the form known as Demi Quarto (i.e. 54 cms. in length and 42 in width) and on both sides of each left with single spacing.

(b) The size of the paper used shall be such that the sheet, when folded and trimmed, will be about twenty-eight centimetres in height and twenty-one and half centimetres in width;

(c) The type to be used in the text shall be Pica type; but Long Primer shall be used in printing accounts, tabular matter and notes. Every tenth line shall be numbered in the margin.

766. Contents of Paper Book - The appeals book shall consist of two parts and shall contain the following documents arranged in the following order: -

PART I

(1) Complaint,
(2) Charge or charges against the accused in the 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,

TOP

(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 Prothonotary and Senior Master.

PART II
EXHIBITS

767. Filing of Paper Book – 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 Prothonotary and Senior Master in his office, and shall also furnish two copies to the respondent.

768. 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 two Judges, excluding the Judge by whom the original trial was held.

769. Procedure in 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

770. Section 5, Limitation Act, applicable – The provisions of section 5 of the Limitation Act, 1963, shall apply to appeals Civil or Criminal under the Act.

771. Code of Civil Procedure, High Court Original Side Rules and Code of Criminal Procedure to apply – The provisions of the Code of Civil Procedure, the rules of the Court in suits and matters on the Original Side of the Court and the provisions of the Code of Criminal Procedure, unless inconsistent with the rules contained in this chapter shall, with

TOP

any necessary modification, apply to the civil or criminal proceedings and appeals under the rules in this chapter, as the case may be. In case of inconsistency between the provisions of the Code of Civil Procedure and the rules of the Court referred to herein, the said rules of the Court shall prevail.

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TOP

CHAPTER XLI

RULES UNDER THE ARBITRAION ACT, 1940
(ACT No. 10 OF 1940)

772. Title of application – (a) Save as hereinafter otherwise provided, all applications, affidavits and proceedings under the Arbitration Act, 1940 (hereinafter in this chapter referred to as the "Act") shall be intituled in the matter of the Act and in the matter of the Arbitration.

(b) Applications under Chapter IV of the Act shall be intituled in the suit or matter in which the Order of reference is made.

(c) Application under section 34 of the Act shall be intituled in the suit which the applicant seeks to have stayed.

[1]**[773. Mode of application** – (a) Save as hereinafter otherwise provided, all applications under the Act shall be made by petition and shall be placed on board for admission after prior notice to all parties concerned. The Judge may consider admission of the petition in exercise of his discretion even though no such notice is served on the other side. The Judge may admit or reject the petition or pass such other orders thereon as he may deem fit.

(b) Applications under section 34 of the Act shall be made by notice of motion in the Arbitration, suit or matter as the case may be.

(c) Applications for extension of time for an arbitrator or umpire to make his award in any suit or matter filed in Court, when not consented to by all parties, shall be made by Chamber Summons. When such applications are consented to by all parties, they may be made in Chambers by presenting a consent order supported by an affidavit verifying the consent of parties.

(d) The first application for extension of time for an arbitrator or umpire to make his award in any arbitration which is proceeding under Chapter II of the Act, whether

1. Rule 773 was substituted by G.N.No. G/Amend/2419. dated 27-3-1991, pub. In M.G.G, Pt. IV-Ka,p.170-173

TOP

consented to or not, shall be made by petition. Subsequent applications, when consented to by all parties, may be made in Chambers by presenting a consent order supported by an affidavit verifying the consent of parties. When subsequent applications are consented to by all parties, the applications shall be made by Chamber Summons.

(e) No separate petition for interim relief will be necessary. The petitioner shall be entitled to incorporate all necessary averments, submissions and prayers for interim relief in the main petition and pursue his application for interim relief without filing any separate petition for interim relief.

774. Contents of petition – Every petition shall be divided into paragraphs numbered consecutively and shall contain in a concise form a statement of the material facts relied on and the nature of the relief asked for and shall clearly specify the persons liable to be affected thereby. A copy of the arbitration agreement, the special case or the award, if any, shall, whenever necessary be annexed to the petition.

775 Fees of the arbitrator and umpire – When the Court makes an order referring a matter in dispute to a arbitration, it shall make such provision as it thinks proper for securing the fees of the arbitrator and umpire.

776. Notice of filing application to persons likely to be affected – Upon any application by petition under the Act, the Judge in Chambers shall, if he accepts the petition, direct notice thereof to be given to all persons mentioned in the petition and to such other persons as may seem to him 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 sough in the petition should not be granted.

777. Processes to be issued on application by arbitrator or umpire – Processes to the parties to arbitration proceedings or to witness shall be issued by the Prothonotary and Senior Master on the written application of the arbitrator or the umpire.

778. Application to be accompanied by copy of arbitration agreement - If the proceedings are under Chapter II of the Act, the application for the issue of such processes

TOP

shall be accompanied by a copy of the agreement under which the arbitrator or the umpire is acting. If otherwise, the date of the order appointing him arbitrator or umpire shall be mentioned in the application.

779. Special Case – Where the arbitrators or umpire state a Special Case under section 13(b) of the Act for the opinion of the Court, they shall transmit it to the Prothonotary and Senior Master along with the fee required for filing the same. They shall at the same time give notice of such transmission to the parties and intimate to the Prothonotary and Senior Master the names and addresses of the parties.

780. Form of the Special case - Every Special Case stated under Section 13 (b) of the Act shall contain only a statement of the material facts and the points on which the opinion of the Court is sought. It shall be in Form No. 84.

781. Notice – When the Special Case is filed, the Prothonotary and Senior Master shall issue notice of such filing to the parties, intimating to them the date fixed for the hearing of the case and requiring them to appear before the Judge in Chambers on the said date.

782. Copy of the Court's order and judgment to be forwarded – The Prothonotary and Senior Master shall send a copy of the Court's order and judgment, if any, to the arbitrators or umpire as the case may be.

783. Issue of notice of application under section 20 - When an application is presented under section 20of the Act and the Judge in Chambers directs notice to be issued, the Prothonotary and Senior Master shall issue a notice returnable in Court calling upon the opposite party to show cause why the arbitration agreement should not be filed.

Unless otherwise ordered, the application shall not be heard until after ten days from the service of the notice upon the party.

784. Filing of Award - The arbitrator or umpire shall, in accordance with the provision of section 14 of the Act, cause the award or a signed copy thereof to be filed in Court, together with any deposition and documents which may have been taken and proved before him and the opinion pronounced by the Court on a special case submitted to him, if any, by

TOP

forwarding the same under a sealed cover addressed to the Prothonotary and Senior Master, with a letter requesting that the same be filed. He shall also send together with the award a memorandum of full postal addresses of the parties concerned, a copy of the notice given by him and the affidavit of service of such notice and of the attestation, if any, of his signature on the award.

785. Arbitrator or Umpire to make affidavit – The arbitrator or umpire shall also make an affidavit stating (1) the data on which the award was made and signed, (2) that all deposition taken and documents proved before him have been forwarded to the Court along with the award and (3) that no documents which came into his possession in the course of the arbitrate ion proceedings have remained with him. Such affidavit shall be filed along with the award.

786. Notice of filing award – When the award has been filed in Court, the Prothonotary and Senior Master shall forth with issue notice of such filing to the parties interested in the award.

[1]**[787. Passing of Judgment and Decree on Award –** (1) On expiry of 30 days from the date of service of notice of filing of the award on the parties, the award shall be placed by the Prothonotary and Senior Master before the Chamber Judge for judgment and decree in terms of the Award. The Award will be so place not latter than sixty days from the completion of service of notice of filing of the Award, as aforesaid. It shall be accompanied by a certificate from the Prothonotary and Senior Master that no application has been made to remit the Award or any of the matters referred to Arbitration for reconsideration or to set aside the Award or, if made, it has been disallowed.

(2) A party interested in enforcing the Award may apply for judgment and decree in terms of the Award on the expiry of thirty days from the date of service of the notice of the Award by filing a petition under section 17 of the Act duly accompanied by a Certificate from the Prothonotary and Senior Master that no application has been made to remit the Award or any of the matters referred to arbitration for reconsideration or set aside the Award or, if made, if has been disallowed. Petitions under section 17 of the Act shall not be required to be placed on Board for admission but shall be placed on Board of the Chamber Judge for

1. Rule 787 was substituted by G.N.No.G/Amend/2419, dated 27-3-1991,Pub.in M.G.G. Pt. IV-Ka,p.170-173

TOP

judgment and decree in terms of the Award. A notice of not less than 4 days shall be given to the other side of the filing of the petition.

(3) When a petition is filed for setting aside or remitting the Award or for reconsideration of any of the matters referred to arbitration, a party inserted in enforcing the Award shall be at liberty to file a petition for judgment and decree in terms of the award immediately on the dismissal of the above referred petition. The petitioner need not produce any certificate from the Prothonotary and Senior Master to the effect that the petition to set aside or remit the Award has been disallowed. The petitioner shall, however, produce a certified copy of the judgment and order dismissing the petition to set aside or remit or modify the Award unless dispensed with by the Judge hearing the petition for decree in terms of the Award. In such a case, the petition under section 17 of the Act shall be placed before the same Judge who has decided the petition to set aside, remit or modify the Award as far as possible.

(4) Where an application for judgment and decree in terms of Award is already pending at the time of disposal of the petition to set aside or remit or modify the Award, such pending application shall be placed before the Judge hearing the petition to set aside, remit or modify the Award to be death with immediately on disposal of such petition.

(5) The Judge disposing of the petition to set aside or remit the Award shall have the discretion to pass a judgment and decree in terms of the Award immediately on delivery of his judgment refusing to set aside or remit the Award or on such date as he deems fit thereafter without requiring any written application from any of the parties interested in enforcing the Award.

(6) Where the application is for judgment on an Award mad under Chapter II of the Act, the party making the application should be called the plaintiff and the other parties shall be called the defendants.]

788. [1]**[Deleted].**

1. Rule 788 was deleted by G.N.No.G/Amend/2419,dated 24-3-1991,Pub.in M.G.G. Pt. IV-Ka,p.170-173.

TOP

789. Code of Civil Procedure and High Court Original Side Rules - In cases not provided for in the rules contained in this chapter, the provisions of the Code of Civil Procedure, 1908, and the rules of the Court in suits and matters on the Original Side of the court, shall, with any necessary modifications, apply to all proceedings before the Court and to all appeals under the Act. In case of inconsistency between the provision of the Code of Civil Procedure and the rule of the Court referred to herein, the said rules of the Court shall prevail.

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TOP

CHAPTER XLII

RULES UNDER THE ARBITRATION (PROTOCOL AND CONVENTION) ACT, 1937 (ACT No. 6 OF 1937)

790. Title of application etc. – All applications, affidavits and proceedings under the Arbitration (Protocol and Convention) Act, 1937 (hereinafter in this chapter referred to as "the Act") shall be intituled in the matter to the Act and in the matter of the Arbitration.

791. Mode of application – Applications under section 3 and 5 of the Act shall be made by petition which shall be presented to the Judge in Chambers.

792. Contents of petition - Every petition shall be divided into paragraphs, numbered consecutively and shall contain in a concise form a statement of the material fact relied on and the nature of the relief asked for and shall specify the persons liable to be affected thereby.

793. Stay of proceedings under section 3 of the Act – Upon an application for stay of proceedings under section 3 o f the Act being filed, the Judge in Chambers shall direct notice to be given to the other parties to the proceedings, requiring them to show cause within a time specified why the order should not be made, unless the Judge is satisfied that the object of the application would be defeated by the delay occasioned by the notice.

794. Enforcement of foreign award. Documents to be produced with petition – The party seeking to enforce a foreign award shall produce with his petition:-

(a) the document specified in section 8(1) of the Act and where such document is in a foreign language, a translation thereof into English certified in the manner prescribed in sub-section (2)of the said section 8;

(b) the original agreement for arbitration or an authenticated copy thereof, and when the same is in a foreign language, translation thereof into English, certified in the manner prescribed in sub-section (2) of the said section 8;;

TOP

(c) an affidavit or affidavits showing (1) that the said agreement was valid under the law by which it was governed, (2) that the award was made by the tribunal provided for the in the agreement or constituted in the manner agreed upon by the parties, (3) that it was made in conformity with the law governing the arbitration procedure and that it has become final in the country in which it was made; and

(d) other documents, if any, in support of his application.

795. Procedure to be followed in case of non-production of documents with petition – If the application under section 5 of the Act be without the document specified in rule 794 (a), it shall forth with be returned to the party presenting it. If such application is not accompanied by the documents specified in rule 794(b) and (c) above, the Judge may allow time to file such documents.

796. Code of Civil Procedure and High Court Original Side Rules to apply. – In cases not provided for in the rules contained in this chapter, the provisions of the Code of Civil Procedure, 1908, and the rules of the Court in suits and matters on the Original Side of the Court shall, with any necessary modifications, apply to all proceedings before the Court and to all appeals under the Act. In case of inconsistency between the provisions of the Code of Civil Procedure and the rules of the Court referred to herein, the said rules of the Court shall prevail.

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TOP

CHAPTER XLIII

RULES UNDER THE FOREIGN AWARDS (RECOGNITION AND ENFORCEMENT) ACT, 1961 (ACT No. 45 of 1961)

797. Title of applications etc – All applications, affidavits and proceedings under the Foreign Awards (Recognition and Enforcement) Act, 1961 (hereinafter in this chapter referred to as the "Act") shall be intituled in the matte of the Arbitration.

798. Mode of application – Applications under section 3 and 5 of the Act shall be made by petition which shall be presented to the Judge in Chambers.

799. Contents of petition – Every petition shall be divided into paragraphs, numbered consecutively and shall contain in a concise form a statement of the material facts relied on and the nature of the relief asked for and shall specify the persons liable to be affected thereby.

800. Stay of proceedings under section 3 of the Act – Upon an application for stay of proceedings under section 3 of the Act being filed, the Judge in Chambers shall direct notice to be given to the other parties to the proceedings, requiring them to show cause, within a time specified, why the order should not be made, unless the Judge is satisfied that the object of the application would be defeated by the delay occasioned by the notice.

801. Enforcement of foreign award. Documents to be produced with petition - The party seeking to enforce a foreign award shall produce with his petition:

(a) the document specified in section 8 (1) of the Act, and where such document is in a foreign language, a translation thereof into English certified in the manner prescribed in sub-section (2) of the said section 8;

(b) the original agreement for arbitration, or an authenticated copy thereof, and when the same is in a foreign language, a translation thereof into English certified in the manner prescribed in sub-section (2) of the said section 8;

(c) an affidavit or affidavits showing --

TOP

(1) that the said agreement was valid under the law by which it was governed,

(2) that the award was made by the Tribunal provided for in the agreement or constituted in the manner agreed upon by the parties,

(3) that it was made in conformity with the law governing the arbitration procedure; and

[1][(4) that it had become binding on the parties in the country in which it was made; and]

(b) other documents, if any, in support of his application.

802. Procedure to be followed in case of non-production of documents with petition. – If the application under section 5 of the Act be presented without the document specified in rule 801(a), it shall forthwith be returned to the party presenting it. If such application is not accompanied by the documents specified in rule 801 (b) and (c) the Judge may allow, time to file such documents.

803. Code of Civil Procedure and High Court Original Side Rules to apply. – In case not provided for in the rules contained in this chapter, the provisions of the Code of Civil Procedure, 1908, and the rules of the Court in suits and matters on the Original Side of the Court shall, with any necessary modifications, apply to all proceedings before the Court and to all appeals under the Act. In case of inconsistency between the Provisions of the Code of Civil Procedure and the rules of the Court referred to herein, the said rules of the Court shall prevail.

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1. Rule 801(c)(4) was inserted by G.N.No.2419,dated.27.3.1991, pub.in M.G.G, Pt. IV-Ka,p.170-173.

TOP

CHAPTER XLIII-A

RULES RELATING TO ARBITRATION AND CONCILIATION ACT, 1996

[1][**803A. Title of application –** (a) Save as hereinafter otherwise provided, all applications, affidavits and proceedings under the Arbitration and Conciliation Act, 1996 (hereafter in this chapter referred to as the "Act") shall be intituled in the matter of the Act and in the matter of the Arbitration.

(b) Application under Section 8 and 54 of the Act shall be intituled in the Suit or matter in which the Order of reference is made.

(c) Application under section 9 of the Act shall be intituled in the arbitral proceedings in which interim measures are ordered.

803B.Mode of application – Save as hereinafter otherwise provided, all Applications under the Act shall be made by petition and shall be placed on board for admission after prior notice to all parties concerned. The judge may consider admission of the Petition in exercise of his discretion even though no such notice is served on the other side. The Judge may admit or reject the Petition or pass such other orders thereon as he may deem fit.

803C. Contents of Petition – (a) Every petition shall be divided into paragraphs numbered consecutively and shall contain a concise form of statement of the material facts relied on and the nature of the relief asked for and shall clearly specify the persons liable to be affected thereby.

The original Arbitration Agreement or the Award or duly certified copy thereof, if any, shall whenever necessary be annexed to the petition.

(b) Every petition under section 27 of the Act shall specify:-

(i) the names and addresses of the parties and the arbitrators;

(ii) the general natural of the claim and the relief sought;

(iii) the evidence to be obtained in particular;

1. Rules 803A to 803F Inserted by G.N.No.12261, dated 18-11-1996.

TOP

(a) the name and address of any person to be heard as witness or expert witness and a statement of the subject matter of the testimony required;

(b) the description of any document to be produced or property to be inspected;

(c) Every petition under section 47 of the Act shall be accompanied by the original Award or a copy thereof, duly authenticated in the manner required by the law of the country in which it was made; the original agreement for arbitration or a duly certified copy thereof; and such documentary evidence as may be necessary to prove that the award is a foreign award. If the award or agreement to be produced is in a foreign language, the party seeking to enforce the award shall produce a translation into English certified as correct by a diplomatic or a consular agent of the country to which that party belongs or certified as correct in such other manner as may be sufficient according to the law in force in India.

(d) Every petition under section 56 of the Act shall be accompanied by the Original Award or a copy thereof duly authenticated in the manner required by Law of the Country in which it was made; evidence proving that the Award has become final; and such documentary evidence as may be necessary to prove that the conditions mentioned in clauses (a) and (c) of sub-section (1) of section 57 of the Act are satisfied. Where any documents to be produced, alongwith the petition is in a foreign language the party seeking to enforce the award shall produce a translation into English certified as correct by a diplomatic or consular agent of the country to which the party belongs or certified as correct in such other manner as may be sufficient according to the law in force in India.

(e) Every petition for enforcement of a foreign award shall be accompanied by an affidavit or affidavits showing that :-

(i) the award has been made in pursuance of a submission to arbitration which is valid under the law applicable thereto;

(ii) the subject matter of award is capable of settlement by Arbitration under the law of India;

TOP

(iii) the award has been made by the arbitral tribunal provided for in the submission to a arbitration or constituted in the manner agreed upon by the parties and in conformity with the law governing the arbitration procedure;

(iv) the award has become final in the country in which it has been made, in the sense that it will not be considered a such if it is open to opposition or appeal or if it is proved that any proceedings for the purpose of contesting the validity of the award are pending;

(v) the enforcement of the award in not country to the public policy or the law of India.

(f) Procedure to be followed in case of non-production of documents with petition - If the application under section 47 and 56 of the Act, be presented without the document specified in Rule 803C (c) and (d) it shall forthwith be returned to the party presenting it. If such application is not accompanied by the documents specified in Rule 803C (c) and (d) the Judge may allow, time to file such documents.

803D. Fees of the Arbitrator – When the Court makes an order referring the matter in dispute to arbitration, it shall make such provision as it thinks proper for securing the fees of the arbitrator.

803E. Notice of filling Application to persons likely to be affected - Upon any application by petition under the Act, the Judge in chambers shall, if he accepts the petition, direct notice thereof to be given to all persons mentioned in the petition and to such other persons as may seem to him 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.

803F. Processes to be issued on Application by Arbitrator or a party – Processes to the parties to arbitration proceedings or to witnesses shall be issued by the Prothonotary and Senior Master on the written application of the arbitrator or a party with specifications as provided under section 27(2) of the Act.

TOP

[1][**803G.** Rule 313 to 318, 323 to 329,333 to 344, 345 to 354 of the Bombay High Court Original Side Rules, 1980 with consequential changes shall apply to the enforcement of the Award under the said Act.

803H. The Execution application in the prescribed form for enforcement of the Award should be accompanied by the Affidavit in support, which shall contain a statement whether an application has been made for setting aside the Award and if so, a copy of the order passed on such application should be annexed to the affidavit.

803I. Upon the receipt of the Execution application in the prescribed form along with the Award or a certified copy thereof, the same shall be processed as per the provisions of Order XXI of the Code of Civil Procedure, 108.

803J. The Execution application should be presented to the Original Side of the Bombay High Court if the person against whom the Award is to be executed ordinarily reside or has property within the jurisdiction of the Original Side of the Bombay High Court.

803K. The Execution application should be presented to the concerned Court within whose jurisdiction the person ordinary resides or has property against whom or which the execution is sought]

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1. Rule 803G to K inserted by G.N. of 3-8-2000, (Pub. In M.G.G. Pt. IV-C, p.360)

TOP

CHAPTER XLIV

RULES UNDER THE INDIAN DIVORCE ACT, 1869 (ACT No. 4 OF 1869)

804. Contents of petition and prayer – (1) Every petition under section 10,18,23,27,32 or 34 of the Indian Divorce Act, 1869(hereinafter in this chapter referred to as "the Act") shall state (a) whether the petitioner professes the Christian religion; (b) the place and date of the marriage and the name, status and domicile of the wife before marriage; (c) the status of the husband and his domicile at the time of the marriage and at the time when the petition is presented, and his occupation and the place or places or residence of the parties at the time of the institution of the suit; (d) the principal permanent addresses where the parties have cohabited, including the address where they last resided together in India; (e) whether there are living any issue of the marriage, and if so the name and dates of birth or ages of such issue; (f) whether there have been in any Court in India or outside India any, and if so what previous proceedings with reference to the marriage by or on behalf of either of the parties to the marriage, and the result of such proceedings; (g) the matrimonial offences changed set out in separate paragraphs with the times and places of their alleged commission; (h) the claim for damages, if any; (i) the ground on which the petitioner claims that the High Court has jurisdiction to determine the petition, and if the petition is one for a decree of dissolution of marriage or of nullity of marriage or of judicial separation, it shall further state that there is no collusion or connivance between the petitioner and the other party to the marriage.

(2) The petition shall conclude with a prayer setting out particulars of the relief claimed, including the amount of any claim for damages and any order for custody of children which is sought, and shall be signed by the petitioner: Provided that where the petitioner is, by reason of absence or for other good cause, unable to sign the petition, it may be signed by any person duly authorized by him or her to sign the same or to sue on his or her behalf.

805. Marriage certificate to be annexed to petition - Every such petition shall be accompanied by a certified copy of the certificate of marriage, if such a certificate is available to the petitioner.

TOP

806. Verification of petition – The statement contained in every petition shall be verified by the petitioner or some other competent person in the manner required by the Code of Civil Procedure for the verification of plaints.

807. Co-respondent in husband's petition – In every petition presented by a husband for the dissolution of his marriage the petitioner shall make the alleged adulterer a co-respondent in the suit, unless the Court shall otherwise direct under section 11 of the Act.

808. Intervener in wife's petition – Where a husband is charged with adultery with a named person, a certified copy of the pleading containing such charge shall, unless the Court for good cause otherwise directs, 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. The notice shall be in Form No. 86.

809. Notice to appear and answer – The notice to appear and answer shall require the respondent or the co-respondent, as the case may be, to enter an appearance in person or a vakalatnama within fourteen days from the service of the notice and to make answer to the charges in the petition within fourteen days thereafter and unless otherwise ordered, the notice shall be made returnable eight weeks after the date of the filing of the petition, if the respondent and the co-respondent reside within the local limits of the Court and ten weeks after the date of the filing of the petition if either the respondent or the co-respondent resides outside the said limits. The notice shall be in Form No. 85

810. Service of petition and notice – Every petition or notice under the Act shall be served on the party to be affected thereby, either within or without India, by serving him, in the manner prescribed by the Code of Civil Procedure for the service of the summons with a certified copy of the petition or of the notice, as the case may be;

Provided that, unless the Court for good cause otherwise directs, service of all such petitions and notices shall be effected by delivery of the same of the party to be affected thereby, and the Court shall record that it is satisfied that the service has been so effected:

TOP

Provided also that the Court may dispense with such service altogether in case it seems necessary or expedient to do so;

Provided further that no service shall be necessary of any petition or notice to make a decree absolute.

811. Answer to the petition – A respondent or co-respondent, or a woman to whom leave to intervene has been granted under rule 808 may file in the Court an answer to the petition.

812. Answer to be verified and to be served on parties concerned – (1) An Answer to the petition shall be verified by the respondent or co-respondent or the intervener, as the case may be, in the manner required by these rules for the verification of petitions and when the respondent is husband or wife of the petitioner, the answer shall contain a declaration that there is not any collusion or connivance between the parties.

(2) Where the answer of a husband alleges adultery and prays for relief, a certified copy thereof shall be served upon the alleged adulterer, together with a notice to appear in like manner as in a petition. When in such a case no relief is claimed, the alleged adulterer shall not be made a co-respondent, but a certified copy of the answer shall be served upon him together with a notice as provided under rule 808 that he is entitled within the time therein specified to apply for leave to intervene in the suit, and upon such application he may be allowed to intervene, subject to such direction as shall then be given by the Court.

813. Suit may be stayed or proceeded with – (1) If it appears to the Court that proceedings for the dissolution of the marriage have been instituted in any other Court in India or outside India before the date on which the petition was filed in the Court, the Court may stay further proceedings thereon until such time as the court may direct or proceed with the trial of the suit or pass such other order as it may deem fit.

(2) If it appears that such proceedings were instituted after the filing of the petition in the Court, the Court may proceed with the trial of the suit

814. Service of decree *nisi* for dissolution of marriage – A decree *nisi* for dissolution of marriage shall be served on the respondent in the manner provided by the code of Civil

TOP

Procedure for the service of summons. An affidavit proving service of the decree *nisi* shall be filed before an application is made for decree absolute. Where the Court has under rule 810 above dispensed with the service of the notice altogether, it shall not be necessary to serve the decree *nisi* and to file an affidavit as provided above.

815. Service of decree containing collateral matters - Where a decree contains an order in respect of collateral matters, such as an order for the custody of children or an order for paying damages into Court etc., it shall be served on the respondent and the co-respondent in the manner provided by the Code of Civil Procedure for the service of summons. Proceedings subsequent to such decree shall not be rendered invalid by reason only of the fact that the decree is not proved to have been served.

An application to enforce an order in respect of collateral matters in a decree shall be made by Chamber Summons supported by affidavit.

816. Service of decree for judicial separation or restitution of conjugal rights. – A decree for judicial separation or restitution of conjugal rights shall be served on the respondent in the manner provided by the Code of Civil Procedure for the service of summons.

817. How cause shown after decree *nisi* – Any person, other than the "Officer" appointed by the State Government, wishing to show cause against making absolute a decree *nisi* shall, if the Court so permits, enter an appearance in person or a vakalatnama in the suit in which such decree *nisi* has been pronounced, and at the same time file affidavits setting forth the facts upon which he relies. Certified copies of the affidavits shall be served upon the party or the Advocate on record for the party in whose favour the decree *nisi* has been pronounced.

818. Affidavits in reply and rejoinder – The party in the suit in whose favour the decree *nisi* has been pronounced may within a time to be fixed by the Court file affidavits in reply and the person showing cause against the decree *nisi* being made absolute may within a further time to be so fixed file affidavits in rejoinder.

819. Decree absolute when to be made – No decree *nisi* for the dissolution of a marriage shall be made absolute till after the expiry of six month from the pronouncing thereof, if no

TOP

appeal has been filed within that period, or if any appeal, including an appeal to the Supreme Court, has been filed, until after the decision thereof.

820. Application for decree absolute how made – (1) An application to make absolute a decree *nisi* shall be made to the Court by filing a precipe stating that the application is made for such decree absolute and requesting that a time may be appointed for the purpose of pronouncing it in open Court. The Prothonotary and Senior Master shall then fix the time when the matter will be placed on board for decree absolute. Before the day fixed for passing the decree absolute, the application shall file an affidavit stating that no proceedings for the dissolution of the marriage have been instituted and are pending in any Court and shall also file a certificate of the Prothonotary and Senior Master certifying that an affidavit proving service of the decree *nisi* on the respondent has been filed and that no person has intervened or obtained leave to intervene in the suit and that no appearance or vakalatnama has been entered nor any affidavits filed on behalf of any person wishing to show cause against the decree *nisi* being made absolute. In case leave to intervene has been obtained or appearance or vakalatnama entered or affidavits filed on behalf of such person, the certificate shall state what proceedings, if any, have been taken thereon and what is the result thereof.

(2) If more than twelve calendar months have elapsed since the date of the decree *nisi*, an affidavit by the petitioner giving reasons for the delay shall be filed.

(3) Where under Rule 814 above, it is not necessary to file an affidavit proving service of the decree *nisi*, the applicant may not file the certificate of the Prothonotary and Senior Master regarding filing of the affidavit proving service.

821. Decree absolute, appearance not necessary – On the date appointed for the purpose the suit shall be placed on board for decree absolute, and on the suit being called on, the decree *nisi* shall be made absolute without any application being made to the Court either by the party or by his Advocate.

Alimony, maintenance and Custody of children

822. Application for alimony, custody and maintenance of children – Where there is a controversy as to alimony or the custody and maintenance of children, such matter shall be disposed of by a separate application of the Judge taking matrimonial causes in Chambers.

TOP

Removal of child outside jurisdiction – Any order relating to the custody of children shall direct that the child to remain in the custody of the party of whom such custody is given until further order of the Court and be not removed out of the jurisdiction of the Court without its sanction.

823. Provision for wife's costs – A wife, whether she be the petitioner or the respondent, may apply by Chamber Summons that provision may be made for her costs upto and of and incidental to the hearing of the suit and the Judge may on such application order the husband to pay into Court a sum sufficient to cover such costs or to give security for the same. If the sum be paid into Court, the wife may apply to the Prothonotary and Senior Master to pay the amount of costs to her or to her Advocate on record. The Court may, however, where the wife is possessed of sufficient means of her won, refuse to pass any order under this rule.

Nothing is this rule shall disentitle a wife in whose favour a decree *nisi* for dissolution of marriage or a decree for nullity of marriage is pronounced to the full costs of the suit against the respondent.

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TOP

CHAPTER XLV

RULE UNDER THE TRADE AND MERCHANDISE MARKS ACT, 1958 (ACT No. 43 OF 1958)

824. Definitions – In the rules contained in this Chamber:-

(a) "the Act" means the Trade and merchandise Marks Act, 1958.

(b) "The Registrar" means the Registrar of Trade Marks referred to in section 4 of the Act and includes any officer when discharging the functions of the Registrar in pursuance of sub-section (2) of section of 4 of the Act.

825. Title of applications and appeals – All applications and appeals under the Act shall be intituled in the matter of the Act and in the matter of the Trade Mark.

826. Mode of application – All applications and appeals from orders of the Registrar under the Act shall be made my petition and shall be presented to the Judge in Chambers.

827. Disposal by Judge in Chambers – The Judge in Chambers may either accept 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.

828. Service on Registrar – All applications to the Court whether by way of appeals 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 or the Judge in Chambers.

829. Record of the case in Appeal – In all contested appeals from the decisions of the Registrar the petitioner and the respondent shall furnish to each other within two weeks from the date of the filing of the affidavit in reply a list of documents forming part of the record of the case before the Registrar on which they rely for the purpose of the appeal. The petitioner shall prepare a duly indexed compilation of the documents relied upon by both sides and furnish a copy thereof to the Court and to the other side.

TOP

830. Reference under section 107(2) – Where the Registrar makes a reference to the High Court under section 107(2) of the Act, he shall forward the same to the Prothonotary and Senior Master and shall given notice of the fact to the parties concerned. He shall furnish copies of the reference to such parties. He shall also supply to the Prothonotary and Senior Master the postal addresses of all persons concerned in the reference. After the reference is received, the Prothonotary and Senior Master shall fix a date for the hearing of the same and shall put it on the board of the Judge in Chambers on such date for disposal. Seven days' notice of the day so fixed shall be given by the Prothonotary and Senior Master to the Registrar and to the parties concerned by sending the notice by registered post.

831. Appeals under sections 108(3) and 109(5) of the Act – Rules relating to appeals contained in Part II, Chapter LII shall, with any necessary modifications, apply to all appeals under section 108(3) and section 109(5) of the Act.

832. Procedure for withdrawal of application under section 109(7) – Where under section 109(7) of the Act, an applicant for registration intends to withdraw his application, he shall give notice thereof in writing to the Registrar and to 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 Prothonotary and Senior Master who shall thereupon forthwith place the appeal on the board of the Judge in Chambers for disposal.

833. Notice. How to be given – Unless otherwise provided by these rules or unless otherwise ordered, when notice is required to be given to any party by the Act or by these rules, it shall be served on such party in the manner provided for the service of writ of summons in a suit.

834. Copy of judgment and order to be sent to the Registrar – A certified copy of every judgment and order made on any application or appeal under the Act shall be sent by the Prothonotary and Senior Master to the Registrar

835. Code of Civil Procedure and High Court Original side Rules to apply – In cases not provided for in the rules contained in this chapter, the provisions of the Code of Civil Procedure, 1908, and the rules of the Court in suits and matters on the Original Side of the Court shall, with any necessary modifications, apply to all proceedings under the Act. In case of inconsistency modifications, apply to all proceedings under the Act. In case of

TOP

inconsistency between the provision of the Code of Civil Procedure and the rules of the Court referred to herein, the said rules of the Court shall prevail.

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TOP

CHAPTER XLVI

RULES UNDER THE INSURANCE ACT, 1938
(ACT No. 4 OF 1938)

836. Applications and appeals – All applications and appeals under the insurance Act, 1938 (herein after in this Chapter referred to as "the Act"), shall, if the registered office of the insurer or the provident society is situate within Greater Bombay, be heard and disposed of on the Original Side of the High Court by the Original Side of the High Court by the Judge in Chambers or such other Judge as the Chief Justice may appoint.

837. Mode of application - All such applications and appeals, other than appeals falling under clause (3) of section 110 of the Act, shall be made by petition supported by an affidavit and shall be intituled in the matter of the Act and in the matter of the insurer or the provident society, as the case may be. Where the application is under section 47 of the Act, the petition shall be intituled in the matter of the policy number.

Where an appeal falls under clause (3) of section 110 of the Act, the rules relating to appeals contained in Part II, Chapter LII shall, with any necessary modifications, apply to such appeal.

838. Disposal of petition – The Petition shall be presented to the Judge who may either accept the petition and direct notice thereof to be given to all necessary parties or may reject it summarily or may make such order as the circumstances of the case may require.

839. Application under section 47 – Where a petition is presented under section 47 of the Act, the Judge shall, if satisfied that so satisfactory discharge for the payment of the amount can otherwise be obtained, direct the insurer to make payment into Court and shall also direct in what Government securities the said amount shall be invested. If, in his opinion, such difficulty as may exist to the insurer obtaining a proper discharge is likely to be removed within a reasonable time, he may adjourn the said petition for such period as he may think reasonable or may make such order as the circumstances of the case may require.

840. Costs – The costs of the application for payment of the amount into Court shall be borne by the insurer. All other costs shall be in the discretion of the Court.

TOP

841. No payment into Court without leave, where action is pending – No payment shall be made into Court under the Act where any suit or proceeding to which the insurer is a party is pending in relation to the policy or the moneys thereby assured, except by leave of the Judge to be obtained in the suit or proceeding.

842. Notice of payment into Court – The insurer shall forth with give notice of such payment and of the order for the investment thereof by letter through registered post at its own costs to the several persons appearing to be entitled to or interested in the money assured and paid into Court, or who have given notice of claim to the company, except where such notice has been withdrawn.

843. Procedure regarding disposal of claim - Any person claiming to be entitled to or interested in the money paid into Court may apply by Chamber Summons for disposal of the claim or claims to the amount paid into Court and for payment of the same to him or to the person or persons entitled thereto.

844. Insurer not to be served, unless costs asked against him – Unless the Judge shall otherwise direct, the applicant shall not, except when he asks for payment of costs by the insurer, serve such summons on the insure, but shall serve the same on every person appearing from the petition on which payment into Court was made to be entitled to, or interested in, or to have a claim upon the money, and on any other person who has given notice of his claim to the Prothonotary and Senior Master.

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TOP

CHAPTER XLVII

RULES UNDER THE TRANSFER OF PROPERTY ACT, 1882
(ACT No. 4 OF 1882)

845. Application under section 83 of the Transfer of property Act – Every application under section 83 of the Transfer of Property Act, 1882, (hereinafter in this Chapter referred to as "the Act") by a mortgagor or any other person entitled on institute a suit for redemption of the mortgaged property shall be made by petition and shall be presented to the Judge in Chambers.

846. Payment into Court of costs and expenses under section 83, or any subsequent section. – Unless otherwise ordered, there shall be paid into Court, in addition to the sum deposited under section 83 or any subsequent section of the Act, a sum sufficient to provide for the mortgagee's costs of withdrawing the deposited amount from the Court and a further sum to provide for the mortgagee's costs of transferring the property, and causing such transfer to be registered. Such costs shall be estimated and certified by the Taxing Master.

847. Order for payment of money into Court under section 83 – Every order for payment of money into Court under section 83 of the Act shall specify the sums to be paid and the purpose for which each sum is intended.

848. Notice under section 83 to be served by the Prothonotary and Senior Master - Unless otherwise ordered, the notice required to be served under section 83 of the Act shall be issued by the Prothonotary and Senior Master and shall be served by sending it by registered post to the party concerned.

849. Notice of payment under Order 34 of Code of Civil Procedure to be given by the person making such payment – When money is paid into Court under Order XXXIV, rule 2 of the Code of Civil Procedure, or under any subsequent rules of the said order, the person making such payment shall forthwith give written notice thereof to the person or persons on whose account such payment is made.

850. Application by mortgagee – Every application by a mortgagee to withdraw moneys deposited in Court shall be made by petition and shall be presented to the Judge in Chambers.

TOP

Notice of the petition shall be given by the mortgagee to the person by whom the moneys were deposited, unless the Judge in Chambers thinks fit to dispense with such notice.

851. Consequence of refusal of tender – Where it shall appear that previous to any payment into Court under section 83 or any subsequent section of the Act a sufficient tender was made to, and refused by the mortgagee, he shall, unless otherwise ordered, pay to the mortgagor the costs of his application to the Court and the mortgagee shall not be allowed to withdraw the amount deposited in court to meet his claim, without deducting the costs of the mortgagor of his application to the Court, and the mortgagor shall not be allowed his costs of obtaining the order for payment. Except as aforesaid or when otherwise ordered, the mortgagee shall be allowed all costs properly incurred by him.

852. Interest not to be allowed to the mortgagee in certain circumstances. – If through default on the part of the mortgagee it becomes necessary to obtain an enlargement of time under Order XXXIV of the Code of Civil Procedure, no interest shall be allowed for the enlarged time, unless the Judge in Chambers otherwise orders.

853. Application for withdrawal of moneys from the Court under section 83 or any subsequent section – On an application for withdrawal of moneys from the Court under section 83 or any subsequent section of the Act by a mortgagee who has complied with the orders of the Court and the provisions of the Act and of the rules made in this behalf and has, when required so to do, transferred the property and possession free from encumbrance and caused such transfer to be registered and accounted for the documents of title which were held by him, the Judge in Chambers may make such order as he thinks fit for the disposal of the principal sum, interest thereof and the amount deposited for costs and expenses.

854. Certificate of Sale and Conveyance – Where immovable property is sold under Order XXXIV of the Code of the Civil Procedure, the purchaser may, on application to the Judge in Chambers, obtain a certificate of sale as evidence of the title to the property sold to him and may also, at his own costs, obtain a conveyance from the mortgagor.

855. Enforcement of Order under this Chapter – Every order made under this chapter shall be deemed to have been made in a suit instituted under the Code of Civil Procedure and may be executed in like manner as an order made in a suit.

TOP

856. Rules relating to sales by Commissioner to apply to sales under the Code of Civil Procedure - Rules relating to sales by the Commissioner for Taking Accounts, so far as they may be applicable, shall apply to all sales by the Court under Order XXXIV of the Code of Civil Procedure.

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TOP

CHAPTER XLVIII

RULE UNDER THE INDIAN TRUSTS ACT, 1882
(ACT No. 2 OF 1882)

857. Investment of Trust moneys – Trusts property consisting of money may be invested in:-

(a) Promissory Notes, Debentures, stock, Bonds or other securities of the Government of India and the Government of Maharashtra;

(b) Deposits with banks specified in column 2 of the First Schedule to the Banking Companies (acquisition and transfer of undertakings) Act. No. 5 of 1970;

(c) Units of the Unit Trust Of India;

(d) Debentures issued under the Bombay Municipal Corporation Act, 1888; and

(e) Debentures issued under the Bombay Port Trust Act, 1879.

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TOP

CHAPTER XLIX

RULES UNDER THE POWERS OF ATTORNEY ACT, 1882
(ACT No. 7 OF 1882)

858. Presentation of petition of the Prothonotary and Senior Master – An application to deposit a power of attorney shall be made by petition signed by the applicant, which shall be presented to the Prothonotary and Senior Master, either by the petitioner in person or by an advocate practicing in this High Court.

859. Execution of power of attorney to be verified – 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, shall be annexed to such petition, and the Court or the Judge in Chambers on being satisfied as to its due execution, may direct it to be deposited in the registry, but the Court or the Judge in Chambers may, before making an order for its deposit, require further evidence of such execution.

860. Receipt to be given on power of attorney being deposited – On an order for deposit being made, the power of attorney shall be kept in the file of instruments deposited under the said Act and a receipt given for it.

861. 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 shall pay the fees prescribed in the following table of fees:-

	Table of Fees	**Rs. P.**
(1)	For application to deposit a power of attorney	1.00
(2)	For filing a power of attorney	2.00
(3)	For application for search	1.00

TOP

(4) For a certified copy or for authentication of a copy Presented as under:-

(a)	For copying or comparing per folio of 90 words	0.50
(b)	Sealing	2.00

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TOP

CHAPTER L

RULES RELATING TO CASE UNDER THE CHARTERED ACCOUNTANTS ACT, 1949
(ACT No. 37 OF 1949)

862. Case under section 21 of the Act to be filed in Prothonotary's Office – A case (hereinafter in this chapter referred to as a "reference") received by the High Court under section 21 of the Chartered Accountants Act, 1949 (hereinafter in this Chapter referred to as "the Act") shall be filed in the office of the Prothonotary and Senior Master and shall be numbered as a reference and entered in a separate register.

863. Appeal or revision application under section 22-A of the Act to be by petition - An appeal or a revision application under section 22-A of the Act shall be made by petition.

864. Appeal or revision application to be filed in Prothonotary's office – An appeal or revision application under section 22-A of the Act shall be filed in the office of the Prothonotary and Senior Master and shall be numbered as an appeal or a revision application under the Act and entered in separate registers.

865. In a reference under section 21 of the Act, Council to forward paper to the Court – (1) The Council of the Institute of Chartered Accountants of India (hereinafter in this chapter referred to as the "Council") shall, in a reference forwarded by it to the High Court under section 21 of the Act, file in the office of the Prothonotary and Senior Master the finding of the Council and forward along with it the report of the Disciplinary Committee and all other relevant papers which was before the Council and the Disciplinary Committee and, in particular, the following documents;

(a) Complaint or information.
(b) Written statement of defence.
(c) Depositions of witnesses together with exhibits.
(d) Notes of the hearing before the Disciplinary Committee and the Council

(2) The Council shall furnish to the Prothonotary and Senior Master the postal addresses of all persons on whom notices are required to be served under section 21(6) of the Act and of the person who has made the complaint.

TOP

(3) The Council shall furnish to the Prothonotary and Senior Master two extra copies of all the papers mentioned in sub-rule (1).

866. Fixing date of hearing and issue of notice – When a reference, appeal or revision application is filed in Court, the Prothonotary and Senior Master shall fix a date for the hearing of such reference, appeal or revision application and shall forthwith issue notices in Form Nos. 87,88 or 89 as the case may be.

867. Service of notices – (a) In the case of a reference under section 21 of the Act, notice shall be sent to (1) the member of the Institute concerned, (2) the Council, and (3) the Central Government.

(b) In the case of an appeal under section 22-A (1) of the Act, notices shall be sent to the Council.

(c) In the case of a revision application under section 22-A (2) of the Act, notices shall be sent to the Council and to the member of the Institute concerned.

(d) The Court, may at any time, direct that notice of the reference, appeal or revision application be sent to the person who has made the complaint.

In all cases, notices shall be sent by registered post at the addresses supplied by the Council and shall be served not less than one month before the date fixed for the hearing of the case.

868. In appeal or revision application under section 22-A of the Act, Council to forward all papers to this court on being served with notice – In an appeal or revision application under section 22-A of the Act, the Council, shall, on being served with notice of the appeal or revision application, forward to the Prothonotary and Senior Master, within two weeks from the date of service, the finding of the Council and all other documents mentioned in rule 865(1) and the extra copies referred to in rule 865(3)

TOP

869. Cases to heard by a bench of two Judges – References, appeals and revision applications under the Act shall be heard by a Division Bench of not less than two Judges to be nominated by the Chief Justice.

870. Copy of final order to be sent to Council - The Prothonotary and Senior Master shall send to the Council a certified copy of the final order passed by the High Court in every reference, appeal or revision application **.**

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TOP

CHAPTER LI
REVIEW

871. Memorandum of Review – (1) An application for review shall be made by filing a memorandum of review, which shall, with any necessary modifications, be in the form prescribed for the memorandum of appeal (Form No. 90).

(2) Rule 42 as to plaints shall, so far as applicable and with any necessary modifications, apply to a memorandum of review.

872. Copy of decree or order need not accompany memorandum of review – The Memorandum need not be accompanied by a copy of the decree or order sought to be reviewed nor by a copy of the judgment, but such decree or order shall be filed before the date fixed for the hearing. If the application rests on an alleged error in a judgment or on other matter necessitating reference to the judgment, it shall be accompanied by a copy of such judgment, if the judgment has been recorded.

873. Contents of such memorandum – The memorandum of review shall set forth plainly and concisely the grounds on which the review is sought, and when the application proceeds on the ground of a discovery of new matter or evidence, there shall, if possible, be annexed thereto the documents, if any, relied upon, a list of witnesses, if any, whom it is proposed to examine, a short statement of the evidence expected to be given by them, and an affidavit setting forth the circumstances under which such discovery was made.

[1][**873-A. Certificate of Advocate for ground of review –** Every application for review shall, if filed by an Advocate, bear a Certificate under his hand to the following effect:-

CERTIFICATE

I……..……., Advocate for the above named ……..……. Review Petitioner herein, do hereby certify that, in my judgment,

1. Rule 873A was inserted by G.N. No. 9040, dated 16-11-1992, M.G.G. Pt. IV-B, p.905.

TOP

ground (or if there be several, each of the grounds) or review in the Petition presented by me on behalf of the said ……..is a good ground of review .

Dated this……. Day of ……20…….

(Signature)

Advocate for……..]

874. Filing of such memorandum and motion - Any person desiring a review of an any decree or order shall, within the time prescribed by law, present his memorandum of review, properly stamped, to the Prothonotary and Senior Master, who shall file the same, if it appears to satisfy the requirements of the Code of Civil Procedure and of these rules; and the party seeking the review shall, as soon as possible, move before the Judge who passed the decree or order for a rule calling on the other side to show cause why the application should not be granted and the suit or matter set down for rehearing.

[1][**875. Procedure when Judge has ceased to be the Judge of that Court or sits at particular Bench -** An application for review of an Order, Decree or Judgment passed by a Single Judge of this Court shall be placed before that Judge:

Provided that, where such Judge has ceased to be the Judge of the High Court or has ceased to be sit at the particular Bench, such Application shall be placed before the regular Court of the Single Judge dealing with category of matters to which the proceedings relate:

Provided further that where the single Judge concerned is not available for the time being by reason of he being on leave or otherwise as aforesaid such application shall be placed before the Court of Single Judge to which the matter may be assigned by the Order of the Chief Justice.

(2) Where the Order has been passed or the Judgment has been delivered by a Division Bench, such application shall be placed before that Division Bench:

Provided further that where one Judge of the said Division Bench has cases to be the Judge of the High Court, or has ceased to sit at the particular Bench, such application shall be placed before another Division Bench of which the other Judge is a member:

1. Rule 875 substituted by G.N. No. G/Amend/3316, dated 15-3-1997,1998 M.G.G. Part. IV-B, p.338.

TOP

Provided further that when both the Judges have ceased to be the Judges of the High Court, or have ceased to sit at the particular Bench, such application shall be placed before a Division Bench dealing with the category of matters of which proceedings relate.]

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TOP

CHAPTER LII
APPEALS

876. Appellate Court – The Chief Justice may, from time to time, constitute a bench of not less than two Judges (in this and the next succeeding chapter referred to as "the Appellate Court") to hear appeals and applications in appeals from decrees or orders passed by Judges exercising Original Jurisdiction of the High Court.

[1]**[877. Memorandum of Appeal –** A memorandum of Appeal shall be in Form No. 90 and Rules 42, 50 and 53 as to Plaints shall, so far as applicable and with any necessary modifications, apply to Memoranda of Appeal.]

878. Copy of decree or order need not accompany Memorandum of appeal. – The memorandum need not be accompanied by a copy of decree or order appealed from nor of the judgment, but such decree or order shall be filed before the day fixed for the hearing.

879. Court may dismiss appeal without notice to respondent – (1) All appeals shall be place in the first instance for hearing the appellant in person or his Advocate, before a Bench of the High Court to be appointed by the Chief Justice and the Court, after hearing the appellant in person or his Advocate, if he appears on that day, may dismiss the appeal without directing notice to issue on the respondent.

(2) If the Appellate Court does not dismiss the appeal under sub-rule (1) above, it shall direct a notice to issue to the respondents.

880. Deleted

881. Prothonotary and Senior Master to accept memorandum – The Prothonotary and Senior Master is empowered to accept and take on file a memorandum of appeal if Rule 877 has been complied with, and it appears to him to have been presented within the time allowed by the law of limitation.

1. Rule 877 was substituted by G.N.No. G/Amend/3047, dated 18-4-92 Pub. In. M.G.G. Pt. Iv-Ka, p. 372.

TOP

882. Endorsement of rejection - If the memorandum of appeal is rejected by the Prothonotary and Senior Master, he shall endorse thereon the date of its presentation and rejection and shall, if requested by the appellant, place it before the Appellate Court for orders.

883. Application for acceptance of rejected memorandum - Application for the acceptance of a memorandum of appeal rejected by the Prothonotary and Senior Master shall be made to the Appellate Court at the earliest opportunity.

The Appellate Court, on hearing such application, shall accept or reject the memorandum of appeal with or without notice to the other side. If accepted, it shall be accepted as of the date of its presentation to the Prothonotary and Senior Master.

884. Deleted.

885. Application for leave to appeal as an indigent person – Every application for leave to appeal as an indigent person shall be made by petition, setting out concisely in separate paragraphs the facts. A schedule of the petitioner's property shall be annexed thereto. The petition shall be presented to the Prothonotary and Senior Master, who will ascertain whether it has been presented within the period prescribed by the law of limitation and whether the provision of the Code of Civil Procedure with respect to such applications have been complied with, If the petition has been presented within the prescribed period and the provisions of the Code of Civil Procedure have been complied with, the Prothonotary and Senior Master shall endorse on the petition the date of its presentation and place it with necessary papers before the Appellate Court for disposal

886. Acceptance of petition subject to inquiry in respect of indigent person - The Appellate Court may accept the petition and allow petitioner to appeal as an indigent person, subject to an inquiry into his claim that he is an indigent person in the manner provided for such inquiry when a person applies for leave to sue as an indigent person:

Provided that if the petitioner as allowed to sue or defend as an indigent person, no further inquiry in respect of claim that he is an indigent person shall be held unless the Appellate Court see cause to direct such inquiry

TOP

887. Appeal to be placed for dismissal on failure to serve notice of appeal - The Appellant shall apply and take out and serve notice of the appeal on the Respondent within 15 days from the date of the Order directing notice to issue on the Respondent under Rule 879 above, unless otherwise ordered. On his failing to do so, the Prothonotary and Senior Master may set down the appeal on the board for dismissal.

888. Application for notes of evidence – The appellant shall on the acceptance of his memorandum of appeal apply to the Prothonotary and Senior Master for a copy of the notes of evidence and other necessary documents and shall prepare the appeal paper book without delay.

889. Appellant to lodge index of the appeal paper book – The appellant shall prepare and lodge in the office of the Prothonotary and Senior Master within fifteen days from the service of the notice of appeal an index of the documents to be included in the appeal paper book and shall apply to the Prothonotary and Senior Master to appoint a time to settle the index. Notice of the time so appointed shall be given by the appellant to the respondent or his Advocate on record.

890. Settlement of index – The Prothonotary and Senior Master shall settle the index and shall decide how many copies of the appeal paper book shall be prepared by the appellant.

891. Party aggrieved may apply to Judge – If a party is not satisfied with the index as settled by the Prothonotary and Senior Master, he may apply to the Judge in Chambers

892. Contents of appeal paper book where appeal is from a decree – (1) When the appeal is from a decree, 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

(a) Pleadings.

(b) Issues.

TOP

(c) Depositions of witnesses examined on behalf of the plaintiff, including depositions taken *de bene esse,* or on commission, if admitted in evidence at the hearing.

(d) Depositions of witnesses examined on behalf of the defendant including deposition, taken *de bene esse*, or on commission, if admitted in evidence at the hearing.

(e) Judgment of the trial Court.

(f) Decree of the trial Court.

(g) Memorandum of appeal.

(h) Cross-objections, if any, under Order XLI, Rule 22 of the code of Civil Procedure.

PART – II

(a) Exhibits and documents put in on behalf of the parties respectively.

(b) Any document rejected by the trial Court where its rejection is a ground of appeal or cross-objection.

(c) Such other documents as the Prothonotary and Senior Master may direct on notice to the parties.

(II) The index to Part I shall be in chronological order, and shall be placed at the beginning of the volume.

The index to Part II shall follow the order of the exhibit mark, and shall be placed immediately after the index to Part I

(III) Part I shall be arranged strictly in chronological order, i.e., in the same order as the index.

Part II shall be arranged in the most convenient way as the circumstances of the case require. The documents shall be arranged as far as possible in chronological order, mixing plaintiff's and defendant's documents together when necessary. Each documents shall show its exhibit mark, and whether it is a plaintiff's or defendant's

TOP

document (unless this is clear from the exhibit mark) and in all cases documents relating to the same matter, such as-

(a) a series of correspondence, or

(b) proceedings in a suit, other than the one under appeal, shall be kept together.

The proper page number of each document shall be inserted in the index.

The appellant will be responsible for arranging the record in proper order.

(IV) The documents in Part I shall be numbered consecutively.

The documents in Part II shall not be numbered, apart from the exhibit mark

(V) Each document shall have a heading which shall consist of the number or exhibit mark and the description of the document in the index, with the date.

(VI) Each document shall have a heading which shall be repeated at the top of each page over which the document extends, viz:-

PART – I

(a) Where the case has been before more than one Court, the short name of the Court shall first appear. Where the case has been before only one Court, the name of the Court need not appear.

(b) The heading of the document shall then appear consisting of the number and the description of the document in the index, with the date, except in the case of oral evidence.

(C) In the case of oral evidence, "Plaintiff's evidence" or "Defendant's evidence" shall appear next to the name of the Court, and then the number in the index and the witness's name, with "examination", "cross-examination", or "re-examination", as the case may be.

TOP

The word "Exhibits" shall first appear and next to it the exhibit mark and the description of the document in the index with the date.

Sufficient space shall be left after the heading to distinguish it from the rest of the matter appearing on the page.

(VII) Formal and irrelevant documents shall be omitted, but the description of any document may appear both in the index and in the Record, if desired by any party, with the words 'not included' against it.

A long series of documents such as accounts, rent rolls inventories, etc., shall not be set out in full, unless counsel so advice, but short extracts shall be set out as specimens.

(VIII) In cases where maps are of an inconvenient size or unsuitable in character, the appellant shall, in agreement with the respondent, prepare from the materials maps drawn properly to scale and of reasonable size, showing, as for as possible, the claims of the respective parties in different colours.

In case of difference between the appellant and the respondent or their respective Advocates on record as to the inclusion of documents in the paper book, including the question whether any documentary exhibit such as a title deed should be set out in *extenso* or not, such questions shall be settled by the Prothonotary and Senior Master at a meeting to be held before him.

893. Contents of appeal paper book in other cases – In the case of other appeals, the appeal paper book shall contain such papers as were used by the parties at the hearing or as the Prothonotary and Senior Master may direct.

894. Number of documents of similar nature – When a number of documents in one form have been put in evidence, whether as one exhibit or not, it shall not be necessary to include more than one document but reference to the others may be made in the appeal paper book by

TOP

giving such particulars as to date or otherwise as may be necessary to show in what respect they differ from the one included.

895. Appeal paper book – The appeal paper book shall be typed or cyclostyled, but the Prothonotary and Senior Master may, on the application of any party, direct that the appeal paper book be printed.

896. Style and size of appeal paper book when typed or cyclostyled – When the appeal paper book is typed or cyclostyled, it shall be legibly typed or cyclostyled on durable foolscap paper or other paper similar to it in size and quality and with an inner margin of about three and a half centimeters wide. It shall be written up on both sides of each leaf with double spacing.

897. Style and size of appeal paper book when printed – When the appeal paper book is directed to be printed, it shall be printed in accordance with the following directions:-

(a) The appeal paper book shall be printed in the form knows as Demi-Quarto (i.e. 54 cms. in length and 42 cms. in width) and on both sides of each leaf with single spacing.

(b) The size of the paper used shall be such that the sheet, when folded and trimmed, will be about twenty-eight centimeters in height and twenty-one centimeters and a half in width

(c) The type to be used in the text shall be Pica type; but Long Primer shall be used in printing accounts, tabular matter and notes. Every tenth line shall be numbered in the margin.

898. English translation – Only the English translation of any documents not in the English language shall be entered in the appeal paper book.

899. Maximum printing charge for twelve copies – Where the appeal book is directed to be printed, the maximum charge to be allowed to a party for prints not exceeding twelve shall be Rs. 10 per page of 47 lines of running solid matter, Rs. 12 for every page of tabular matter,

TOP

and Rs. 13 for genealogical tables. The full charge shall be allowed, although the printed matter to be printed on any page is not sufficient to occupy a full page.

900. Charges to be allowed for more than twelve copies – In cases where more than twelve appeal paper books are required, the appellant shall get such additional paper books printed. The charges to be allowed to a party in such a case shall be 15 paise per page for each additional paper book printed.

901. Delivery of appeal paper books to respondent on payment of proportionate charges – The appellant shall, without delay, deliver to each respondent as many copies as he shall have applied for on payment by him of such proportion of the typing, cyclostyling or printing charges as the number of copies furnished to him bears to the total number of books prepared.

902. Time for filing appeal paper books – The appellant shall be responsible for the preparation of the appeal paper book and shall file two copies of the appeal paper book in the Prothonotary and Senior Masters office at least six days before the day fixed for the hearing of the appeal.

[1][Provided, however, where the appeal paper book has been directed to be printed under Rule 895, the Appellant shall file 10 extra copies of the appeal paper book in the Prothonotary and Senior Master's Office].

903. Omission to file appeal paper books – In the event of non-compliance with the last preceding rule, the respondent may, with the leave of the Court, prepare and file the appeal paper books, or he may apply, by Notice of Motion, to have the appeal dismissed for want of prosecution or for such other order as he may be advised.

904. Interlocutory applications in appeals – Every application under the rules in this chapter and for stay of execution where appeals are pending shall be made by Notice of Motion to the Appellate Court:

1. Proviso was inserted by G.N. No. G/Amend/4504, dated 22-6-1992, Pub. In M.G.G. Pt. IV-Ka, p.386

TOP

Provided that all matters which are under the Original Side rules dealt by a Judge in Chambers pending the suit shall also be dealt by the Judge in Chambers on the Original Side pending an appeal, unless otherwise ordered by the Appellate Court; and

Provided further that pending the hearing of an appeal, an interlocutory urgent application therein during the vacations and the Christmas Holidays may be made to any two Judges available in Bombay , including, the Judge who made the order.

905. Application for a Bench when Appellate Court not sitting – If the Appellate Court shall not be sitting, the applicant shall give notice of the nature of his intended application to the Prothonotary and Senior Master who will communicate the same to the Chief Justice, so that a time may be fixed and a Bench may be appointed for the hearing of the application.

906. Rules 153 and 163 applicable to appeals – Rules 153 and 163 shall, with any necessary modifications, apply to postponement and dismissal or withdrawal of appeals.

907. When cross-objection under Order XLI, Rule 22 of C. P. Code may be treated as a cross appeal. – In case an appeal for any reason fails to come to hearing on the merits, any cross-objection filed under Order XLI, rule 22, of the Code of Civil Procedure may be treated as a cross-appeal on the application of the respondent by whom the same was filed on such terms as the Court may think fit.

908. Time for filing cross-objections under Order XLI, Rule 26 of C.P. Code – Cross-objections under Order XLI, rule 26 of the Code of Civil Procedure shall be filed within thirty days from the date on which the findings are recorded or within such further time as the Appellate Court may allow.

909. Payment of amount deposited for costs of appeal – When a respondent is ordered to pay the costs of an appeal, or when each party is directed to bear his own costs, the Prothonotary and Senior Master shall, unless otherwise directed, return to the appellant the amount deposited by him as security for the respondent's costs of appeal. When an appellant is directed to pay the respondent's costs of appeal, the Prothonotary and Senior Master shall, unless otherwise directed, pay the amount deposited with him as security for such costs or so

TOP

much thereof as may be necessary, to the respondent in or towards payment of such costs, and shall return the balance (if any) to the appellant.

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TOP

CHAPTER LIII
APPEALS TO THE SUPREME COURT

910. Application for certificate for an appeal to the Supreme Court. – The application for the grant of a certificate for the purpose of an appeal to the Supreme Court of India under Article 132(i) or Article 133 (i) of the Constitution of India or under any other provision of law shall be made by petition and shall be in Form No. 93. The petition shall be filed in the office of the Prothonotary and Senior Master and shall be placed before the Appellate Court for admission.

911. Particulars in petition - The petition mentioned in the last preceding rule shall, so far as applicable, comply with rule 42 as to plaints.

912. Addresses of parties – Full particulars of addresses of the parties shall be furnished to the Prothonotary and Senior Master within seven days from
the filing of the petition.

913. Notice to issue – Upon the admission of the petition, the Prothonotary and Senior Master shall issue a notice in Form No. 94, calling upon the opposite party to show cause why the certificate applied for in the petition should not be granted. The opposite party shall file an affidavit showing cause against the petition within eight days from the service of the notice.

914. Hearing of petition – The petition shall be placed before the Appellate Court for hearing on the returnable date of the notice or on such other date as the Appellate Court may direct.

915. Service of notice and copy of petition of appeal – When a copy of the petition of appeal is received from the Registrar of the Supreme Court, the Prothonotary and Senior Master shall issue notice to the respondent of the lodgment of the petition of appeal in the Supreme Court. The notice and the copy of the petition of appeal shall be served upon the respondent by registered post, prepaid for acknowledgment. They shall be forwarded to the respondent at the address furnished by the appellant. The notice shall be in Form No. 96.

TOP

The Prothonotary and Senior Master shall send to the Registrar of the Supreme Court a certificate as to the date on which the notice and the copy of the petition were served on the respondent.

916. Transmission of original record to the Supreme Court – Unless otherwise ordered by the Supreme Court, the Prothonotary and Senior Master shall, within three weeks from the receipt of a copy of the petition of appeal from the Supreme Court, transmit to the Registrar of the Supreme Court, at the expense of the appellant, the original record of the case.

[1][Provided, however, that where in any case the Supreme Court directs that the records of any appeal be prepared by the High Court, the appeal paper book shall be printed with 10 extra copies from transmitting to the Registrar of the Supreme Court, at the expense of the appellant]

917. Deposit for transmission of record – The appellant shall, within two weeks after he has given security to the Registrar of the Supreme Court for payment of costs of the respondent, deposit with the Prothonotary and senior Master a sum of Rs. 100 towards defraying the expenses of transmitting the record to the Supreme Court. The Prothonotary and Senior Master may in appropriate case require the appellant to deposit further sums for the transmission of the record.

918. Failure to deposit amount for transmission of record – If the appellant shall fail within the time prescribed by rule 917 to deposit the amount required for transmitting the record to the Supreme Court, the Prothonotary and Senior Master shall inform the Registrar of the Supreme Court of the same.

919. Translation by whom to be made – Translation of documents required for the record in appeals to the Supreme Court shall be made by the Court Translators, or by such other persons as the Chief Justice may from time to time appoint in this behalf. The parties on each side will be invited from time to time to inspect such translation and in case of disagreement, the points in dispute, which must be stated in writing, will be submitted within two weeks to the Chief Translator who shall decide. The translation thus made shall be examined and

1. Proviso was inserted by G. N. /Amend/4504 of 22-6-1992, Pub. In M.G.G Pt. IV-Ka, p.386

TOP

authenticated by the Chief Translator or such other person as the Chief Justice may from time to time appoint in this behalf, and will be filed with the record of the case. A fee of one rupee per folio will be levied on account of translation, fifty paise per folio on account of examination and authentication, and twelve paise per folio on account of transcription. After making provision for the payment of persons employed under this rule who are not on the establishment of the Court, the balance of the said fees will be credited to Government.

920. Practice as to matters concerning appeal paper books and translation of documents – Save as herein otherwise provided, the practice as to matters concerning appeal paper books and the translation of documents shall be regulated by such office rules as the Chief Justice may from time to time prescribe

921. Preparation and printing of appeal paper books in Bombay – Where in any case in Supreme Court directs that the record of any appeal be prepared by the High Court, the appeal paper books shall be prepared and printed in accordance with the rules made by the Supreme Court in that behalf, and the said rules shall, with any necessary modifications, apply.

922. Service on Advocate sufficient – In all case where a party has appeared, service of notice on his Advocate on record shall be deemed sufficient notice.

923. Applicability of rules to appeals by special leave – The rules in this chapter shall, with any necessary modifications, apply to appeals admitted by special leave of the Supreme Court.

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TOP

CHAPTER LIII-A

TRANSFER OF CASES UNDER ARTICLE 139-A OF THE CONSTITUTION

923A. Supreme Court to be informed stage of the pending case – The Prothonotary and Senior Master shall on receipt of the Supreme Court order to show cause why the case should not be withdrawn from the file of the High Court, inform the Registrar, Supreme Court within four weeks the stage at which the case is pending in the High Court.

923B. Service of notice on the Respondent – The Prothonotary and Senior Master shall on receipt of the order calling upon the party to show cause why the case should to be withdrawn, enter the order in the Register and serve the notice on the respondent not less than six weeks before the date fixed for final hearing of the application in the Supreme Court.

923C. Transmission of record and proceedings – On receipt of the Order of transfer of the case, the record and proceedings shall be transmitted to the Supreme Court when the case is ripe for hearing.

923D. Printed copies of paper books to be sent – The Prothonotary and Senior Master shall transmit to Supreme Court twenty five printed copies of the record and proceedings of the transferred case within six months from the date of the Order.

923E. Provisions contained in Chapter LIII to apply to applications under this chapter – The rules contained in Chapter LIII regarding service of notice, costs, processes and printing and preparation of record shall mutatis mutandis apply to the transferred application under this Chapter.

923F. On transmission of printed record, Office to give notice to the parties concerned – The Prothonotary and Senior Master shall give notice to the parties of the transferred case regarding the transmission of the printed record to the Supreme Court simultaneously with the transmission of the record.

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TOP

CHAPTER LIV
AUDIT OF ACCOUNTS

924. Audit of accounts of Court Receiver, the Offices of Prothonotary and Senior Master, etc. - The accounts of the offices of the Prothonotary and Senior Master, Registrar, Appellate Side, Master and Registrar in Equity and Commissioner for Taking Accounts (including his accounts as a Special Official Trustee), Official Assignee, Taxing Master, Insolvency Registrar, Chief Translator and Interpreter, Accounts Officer, High Court, and the Sheriff of Bombay shall be audited by an auditor deputed by the Accountant General of Bombay for tat purpose.

925. Audits to be half yearly. Report to Chief Justice – Such audits shall be made half-yearly as soon after the 30th June and 30th December in each year as may be practicable, and the auditor shall, in each case, report the result of the audit to the Chief Justice.

926. In case of difference matter to be decided by Chief Justice or Judge appointed by Chief Justice – If any question arises between the auditor and the officer whose accounts are under audit, the question shall be referred to the Chief Justice. The Chief Justice may himself decide the question or may refer it to any other Judge he may appoint in this behalf. The auditor and the officer whose accounts are under audit shall be entitled to be heard personally on such question before the Chief Justice or such other Judge as aforesaid. The decision of the Chief Justice or such other Judge, as the case may be, on the question shall be final

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TOP

[1]PART – III

ADMIRALTY JURISDICTION

RULES FOR REGULATING THE PROCEDURE AND PRACTICE IN CASES BROUGHT BEFORE THE HIGH COURT UNDER THE COLONIAL COURTS OF ADMIRALTY ACT, 1890

(53-54 VICTORIA CH.27)

927 to 968 ….Deleted

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1. Deleted by Notification No. G/Amend/12879, dated 7.02.2020

TOP

PART IV

CRIMINAL JURISDICTION CONSTITUTION OF COURT AND SITTINGS

969. Jurisdiction to be exercised by a single Judge - The Ordinary Original Criminal Jurisdiction of the High Court shall be exercised by a single Judge, unless the Chief Justice shall otherwise direct.

970. Appellate side to hear applications under E.O.C.J.- Applications for the exercise of the Extraordinary Original Criminal Jurisdiction conferred on this Court by Clauses 24 and 29 of the Letters Patent, and applications under sections 96 an 407 of the Code of Criminal Procedure, shall be heard and disposed of on the Appellate Side.

Cases transferred to be heard on the Original Side in its Criminal Jurisdiction - But the cases directed to be tired by the High Court will be tried on the Original Side in the exercise of its Criminal Jurisdiction, according to the provisions of the said Code of Criminal Procedure before such Judge as the Chief Justice shall appoint.

971. Sitting of criminal sessions.—The criminal sessions of the High Court shall be held at such time and on such dates as the Chief Justice may direct.

972. Clerk of the State to issue summonses and processes.—All summonses, precepts, rules, orders, mandatory processes shall be issued from and returned into the office of the Clerk of the State, and shall be subscribed and sealed by the Clerk of the State. The Sheriff, through his Officers, shall execute them by service in accordance with the provisions of sections 61 to 68 of the Code of Criminal Procedure.

973. Witnesses residing beyond certain limits not to be summoned.—No summons shall be issued by the Clerk of the State to compel the attendance as a witness of any person resident and at the time residing beyond the limits of Greater Bombay, Salsette and Karanja, unless the Court so orders.

TOP

974. Service on Consuls and Consular Officers.—Where subpoenas are required for the attendance of Consuls and Consular Officers, a letter should always take the place of a subpoena to be signed by the Clerk of the state and containing all the particulars required to be stated in subpoena. Such letter should then be forwarded to the General Administration Department of the Government of Maharashtra, for favour of service by the Department on the Consul and ample time should be allowed so as to secure such service in good time and the attendance thereafter by the witness.

975. Attendance of witnesses under recognizances and beyond jurisdiction.—In cases where witnesses resident beyond the local limits of the Ordinary Original Criminal Jurisdiction of the High Court have been bound over by recognizances or summoned to attend and give evidence at the trial of any person committed by any Magistrate in any district to any criminal sessions of the High Court, it shall not be necessary for the Clerk of the State to issue any summons of such witnesses, but the Clerk of the State shall in all such cases, in sufficient time before the day appointed for holding the criminal sessions, send a letter to the Magistrate of the district from which the committal was made, stating the day on which the criminal sessions are to be held, with a list of the witnesses from whom recognizances have been taken and of those to whom summonses have been issued, and requesting the Magistrate to cause the witnesses to be served with notice to attend on the day named in sufficient time to ensure their attendance on that day.

976. Mode of recording evidence.—The evidence of each witness, as his examination proceeds, shall be taken down in writing by the Presiding Judge or in his presence and hearing and under his personal direction and superintendence.

977. Classification of habitual criminal by the presiding Judge – The Judge presiding at the criminal sessions may (with a view to enable the prison- authorities to separate habitual convicts from others) classify as a habitual criminal any of the following persons convicted before him

TOP

(i) any person convicted of an offence whose previous conviction or convictions under Chapter XII, XVI, XVII or XVIII of the Indian Penal Code taken by themselves or with the facts of the present case show that he habitually commits an offence of offences punishable under any or all of those chapters;

(ii) any person committed to or detained in prison under section 123 (read with section 109 or section 110)of the Code of Criminal Procedure;

(iii) any person convicted of any of the offences specified in (i) above when it appears from the facts of the case, even although no previous conviction has been proved, that he is by habit a member of a gang of dacoits or of thieves, or a dealer in slaves or in stolen property;

(iv) any person convicted by a Court or Tribunal acting outside India under general or special authority of an offence which would have tendered him liable to be classified as a habitual criminal if he had been convicted in a Court established in India;

Provided that any person classified as a habitual criminal may apply for a revision of the classification, and the Judge may, either on such application or of his own motion, revise his classification.

Explanation - For the purpose of this rule a conviction shall include an order made under section 118, read with section 110 of the Code of Criminal Procedure.

978. Action to be taken if the misconduct of the police comes to the notice of the Presiding Judge - Where any instance of misconduct or abuse of authority by the police comes to the notice of the Judge presiding at the criminal sessions, the Clerk of the State shall inquire of the Judge whether he desires such instance of misconduct or abuse of authority by the police to be reported to Government, and in the event of the Judge so desiring, he shall communicate to Government accordingly.

TOP

APPLICATION FOR BAIL

979. Bail application to whom to be made - Applications for bail in respect of persons to be tried by the High Court shall be made to the Judge appointed to try the case but in the absence of such Judge, such applications may be made to the Judge in Chambers.

980. Application for bail of prisoner committed to Sessions - When a person it to be tried by the High Court, application may be made on his behalf hat he may be bailed on giving 48 hours' written notice to the Public Prosecutor. Such notice shall contain the names, residence and description of the persons whom he proposes as his sureties. The application shall be supported by an affidavit stating when, by whom, for what offence and under what circumstances the prisoner was committed and where he is detained in custody and the grounds for the application. A copy of such affidavit shall be served upon the Public Prosecutor with the said notice. The Public Prosecutor may file affidavits in opposition to the application and may appear to oppose the making of an order that the prisoner be admitted to bail.

981. Clerk of the State to write to Magistrate to produce depositions - On the hearing of such application the Court may direct the Clerk of the State to write a letter directing the Magistrate by whom such prisoner has been committed to produce the depositions taken before him in the case, unless such depositions shall have previously been forwarded to the office of the Clerk of the State.

982. On Public Prosecutor consenting order on shorter notice – The application mentioned in rule 980 may be made on any shorter notice than 48 hours if the Public Prosecutor consents thereto or waives his right to 48 hours notice, but in every case the written notice and affidavit mentioned in the said rule must be served on the Public Prosecutor before the application is made.

983. Amount of bail and number of sureties - If the order be that the prisoner shall be released on bail, the Court shall direct to what amount such bail shall be taken and with

TOP

how many sureties, and unless the Court approves of the names proposed as bail or shall otherwise direct, the Clerk of the State or his Deputy in his absence shall after examination, approve the same if he is satisfied of their sufficiency.

984. Prisoner may be released on entering recognizances - Unless the Court shall otherwise order the recognizances of the sureties and of the prisoners shall be entered into before the Clerk of the State or his Deputy in his absence, and the Clerk of the State or his Deputy is authorised to direct by letter the Jailor, in whose custody the prisoner is, to bring up the prisoner before the Clerk of the State or his Deputy to enter into his recognizances, and on the prisoner being so brought up, the Clerk of the State or his Deputy may, on recognizances being entered into according to the Judge's order, direct that the prisoner shall be released.

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TOP

PART V
MISCELLANEOUS

985. Definitions - In the rules contained in Parts I,II, III and IV unless there is anything repugnant in the subject or context, or unless it is otherwise provided in the said rules, -

(a) "The Judge in Chambers" means the Judge who is nominated by the Chief Justice to hear and dispose of chamber matters;

(b) "Client" includes any person or body of persons, corporate or unincorporate, on whose behalf an Advocate is acting in the practice of his profession or on whose behalf an Advocate in connection with his practice receives money.

[1]**985(A). Practice Directions issued by the Hon'ble Chief Justice. –** The Hon'ble Chief Justice may, by Notification, issue Practice Directions to supplement these Rules including provisions contained in Appendices annexed and forms prescribed.

[2][**986. Rejection of plaint, memo of appeal, execution application and applications and petition of original nature for non-removal of office objections. –** Every plaint, memo of appeal, application for execution and all other applications and petitions of the original nature, including the petition by an indigent person, in which the Plaintiff / Appellant / Applicant / Petitioner does not remove the office objections within 30 days from the date of lodging the said documents, shall be placed before the Prothonotary and Senior Master for directions, who may reject such documents for non-removal of office objections. Rule 133 of these rules will apply to such rejection].

[3][**986-A. Application for winding up under Companies Act, 1956 in respect of certain areas of the State of Maharashtra –** Application for winding up of a Company and other applications under the Companies Act, 1956, in respect of a Company having its registered Office or in the case of a Company incorporated outside India, its principal place of business within the State of Maharashtra, excluding the Districts of Akola, Amravati, Bhandara, Buldhana, Chandrapur, Nagpur, Wardha and Yavatmal and in respect of which, under section

1. Add by Notification No. P.3603/2019, dated 22.11.2019
2. Rule 986 was substituted by G. N. No. G/Amened/4504 of 22-6-1992, Pub. In M.G.G. Pt. IV-Ka.p.386
3. Rule 986A was inserted by G.N of 16-10-1890.

TOP

10(1) of the Companies Act, 1956, the High Court has jurisdiction, shall be filed in the Office of the Prothonotary and Senior Master.]

987. General Clauses Act, 1897 and section 2, Code of Civil Procedure, to apply - The Provisions of the General Clauses Act, 1897, and of section 2 of the Code of Civil Procedure shall apply to the rules contained in Part I, II and III, unless there is anything repugnant in the subject or context, or unless it is otherwise provided in the said rules.

[1][**987-A. Rules relating to Trade and Merchandise Act, 1958 to apply to this petition under the Patent Act, 1970. –** Rules framed under Chapter XLV of Rules under Trade and Merchandise Act, 1958, shall also apply to Petition under the Patents Act, 1970, mutatis mutandis.]

988. In cases not provided for, present practice to be followed – In cases not provided for by the code of Civil Procedure or by the rules contained in Parts I, II and III, the present practice and procedure shall be followed, so far as they may be applicable and are not inconsistent with the said Code and the said rules.

989. Forms to be used – The forms given in the Schedule, with such variations as the circumstances of each case may require, shall be used for the purposes therein mentioned.

990. Short title, date of commencement and applicability – The rules in this Part and in the preceding Parts may be cited as "The Rules of the High Court of Judicature at Bombay (Original Side), 1980". They shall come into force on the 1st day of May 1980, and shall also apply so far as may be practicable, unless otherwise expressly provided, to all proceedings taken on or after that day in all suits and matters then pending.

991. Repeal – The Rules of the High Court of Bombay (Original Side), 1957, treating of matters contained in this Part and the preceding Parts, are hereby repealed and the rules contained in the said Parts shall stand in lieu thereof.

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1. Rule 987A inserted vide G. N. dated 20-10-1992.

TOP

CHAPTER LV

RULES RELATING TO REFERENCES AND APPLICATIONS UNDER SECTION 130 OF THE CUSTOMS ACT, 1962 (ACT 130 OF 1962)

992. References to be sent to the Prothonotary and Senior Master – All references under section 130 of the Customs Act, 1962 (hereinafter in this Chapter referred to "as the Act") shall be forwarded to the Prothonotary and Senior Master, and shall be dealt with on the Original Side of the High Court

993. Notice of reference to party at whose instance the reference is made – When the Appellate Tribunal refers a case to the High Court, it shall give notice of that fact to the party at whose instance the reference has been made and shall call upon him to take such steps in the Office of the Prothonotary and Senior Master as may be necessary for bringing the reference to the final conclusion.

994. Filing statement of case issuing notice and fixing date for the hearing – The party at whose instance a reference has been made shall file the statement of the case in the Office of the Prothonotary and Senior Master and shall forthwith take steps to bring the reference to a final conclusion. Such party shall apply to the Prothonotary and Senior master to issue notice and to fix a date for the hearing of the reference and shall serve the notice on the opposite party. If such party fails to take such steps for two months from the receipt of the reference in the High Court, the Prothonotary and Senior Master may set down the reference on board for orders. The Court may pass such order on the reference as it may deem fit.

995. Preparation of Paper Book – The party at whose instance a reference has been made shall prepare the paper book which shall contain the Statement of the Case and other papers forwarded by the Appellate Tribunal. The paper book shall be typed or cyclostyled but the Prothonotary and Senior Master may on the application of any party, direct that the paper book be printed. Two copies of the paper book shall be filed in the Office of the Prothonotary and Senior Master within two months from the date of the filing of the reference in the High Court.

TOP

996. Failure to file Paper Books - In the event of non-compliance with the last preceding rule, the Prothonotary and Senior Master may set down the reference on board for orders. The Court may pass such order on the reference as it may deem fit.

997. Application under section 130 (3) – An application under sub-section (3) of section 130 of the Act shall be presented to the Prothonotary and Senior Master. Such application shall be by petition. There shall be annexed to such petition copies of the Order and Judgment, if any, of the Appellate Tribunal, and also of the relevant documents on which the applicant wants to rely in support of his application.

998. Placing of application before the Court – The Prothonotary and Senior Master shall place such application before the Court on a day appointed by the Chief Justice. The Court may either reject the application summarily, or order a rule *nisi* to issue to show cause why the Order applied for should not be made. The rule shall be made returnable on such date as the Court may direct.

999. Service of rule *nisi* – The rule nisi together with a copy of the application shall be served on the opposite party i.e. on the assessee or the Collector of Customs, as the case may be, at least fourteen days before the returnable date of the rule.

1000. Time for furnishing copies of application – On a rule nisi being issued the applicant shall furnish to the Office of the Prothonotary and Senior Master two type written or cyclostyled or printed copies of such application with all its annexures at least one week before the day fixed for the hearing of the rule.

1001. Answer to rule *nisi* – Answer to the rule *nisi* shall be made on affidavit and the same shall be filed at least four days before the returnable date of the rule *nisi.* Two copies of such affidavit shall be furnished to the Office of the Prothonotary and Senior Master.

1002. A copy of the Court's Order and Judgment to be sent to the Appellate Tribunal – Where the rule *nisi* is made absolute, the Prothonotary and Senior Master shall send a copy of the Court's Order and Judgment, if any, to the Appellate Tribunal.

TOP

1003. References and applications to be heard by a bench – All references and applications under section 130 of the Act shall be heard by a bench of not less than two Judges appointed by the Chief Justice.

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TOP

CHAPTER LVI

RULES RELATING TO REFERENCES AND APPLICATIONS UNDER SECTION 35 OF THE CENTRAL EXCISES AND SALT ACT, 1944 (ACT 35 OF 1944)

[1][**1004. References to be sent to the Prothonotary and Senior Master at Bombay, Additional Registrar at Nagpur and Aurangabad and Special Officer at Panaji, Goa. –** All References and Applications under section 35 of the Central Excises and Salt Act, 1944 (hereinafter in this Chapter referred to as "the Act"), shall be forwarded to the Prothonotary and Senior Master, and shall be dealt with on the Original side of the High Court;

(i) Provided that References and Applications arising in the Judicial Districts of Akola, Amravati, Bhandara, Buldhana, Chandrapur, Nagpur, Wardha, Yavatmal and Gadchiroli, which lie to the High Court of Bombay shall be presented to the Additional Registrar of that High Court at Nagpur and shall be disposed of by the Judges sitting at Nagpur :

Provided further that the Chief Justice may, in his discretion, order that any case arising in any such District shall be heard at Bombay:

(ii) Provided that References and Applications arising in the Judicial Districts of Ahmednagar, Aurangabad, Beed, Jalgaon, Jalna, Nanded, Osmanabad, Parbhani and Latur which lie to the High Court at Bombay, shall be presented to the Additional Registrar at Aurangabad and shall be disposed of by the Judges sitting at Aurangabad:

Provided further that the Chief Justice may, in his discretion, order that any case arising in any such District shall be heard at Bombay;

1. Rule 1004 was substituted by G.N.No.G/Amend/3481, dated 20-7-1989, pub. in MG.G. Pt. IV-Ka,p.202-204.

TOP

(iii) Provided that References and Applications arising in the State of Goa which lie to the High Court at Bombay, shall be presented to the Special Officer at Panaji, Goa and shall be disposed of by the Judges sitting at Panaji, Goa;

Provided further that the Chief Justice may, in his discretion, order that any case arising

in the State of Goa shall be heard at Bombay.

(2) (a) References and Applications filed at Bombay prior to 1st July 1989, may be transferred for hearing and final disposal to any of the Benches of the High Court at Nagpur/Aurangabad/Goa, provided the Advocate or the party concerned obtains an Order from the Court to that effect.

(b) The Office of the Prothonotary and Senior Master, shall, on receipt of a certified copy of the Order from the Advocate/Party concerned to that effect transfer the papers and proceedings in such Reference/Application to the concerned Bench for hearing and final disposal.

(c) The Officer-in-Charge at the concerned Bench shall return the papers and proceedings to the Office of the Prothonotary and Senior Master, after the matter is finally disposed of. He shall also forward a true copy of the final order along with the said papers and proceedings.

1005. Notice of reference to party at whose instance the reference is made – When the Appellate Tribunal refers a case to the High Court, it shall give notice of that fact to the party at whose instance the reference has been made and shall call upon him to take such steps in the Office of the Prothonotary and Senior Master [1][or Officer-in-Charge at the concerned Bench] as may be necessary for bringing the reference to a final conclusion.

1006. Filing Statement of case, issuing notice and fixing date for the hearing - The party at whose instance a reference has been made shall file the Statement of the case in the Office of the Prothonotary and Senior Master [1][or Officer-in-Charge at the concerned Bench] and

1. These words were inserted by G.N.No.G/Amend/3481, dated 20-7-1989, Pub.in M.G.G.Pt. IV-Ka,pp.202-204)

TOP

shall forthwith take steps to bring the reference to a final conclusion. Such party shall apply to the Prothonotary and Senior Master [1][or Officer-in-Charge at the concerned Bench] to issue notice and to fix a date for the hearing of the reference and shall serve notice on the opposite party. If such party fails to take such steps for two months from the receipt of the reference in the High Court, the Prothonotary and Senior Master may set down the reference on board for Orders. The Court may pass such Order on the reference as it may deem fit.

1007. Preparation of Paper Book – The party at whose instance a reference has been made shall prepare the paper book which shall contain the Statement of the case and other papers forwarded by the Appellate Tribunal. The paper book, shall be typed or cyclostyled, but the Prothonotary and Senior Master [1][or Officer-in-Charge at the concerned Bench] may, on the application of any party, direct that the paper book be printed. Two copies of the paper book shall be filed in the Office of the Prothonotary and Senior Master [1][or Officer-in-Charge at the concerned Bench] within two months from the date of the filing of the reference in the High Court.

1008. Failure to the Paper Book – In the event of non-compliance with the last preceding rule, the Prothonotary and Senior Master [1][or Officer-in-Charge at the concerned Bench] may set down the reference on board for Orders. The Court may pass such Order on the reference as it may deem fit.

1009. Application under section 35(3) – An application under sub-section (3) of section 35 of the Act shall be presented to the Prothonotary and Senior Master [1][or Officer-in-Charge at the concerned Bench]. Such application shall be by petition. There shall be annexed to such petition copies of the Order and Judgment, if any, of the Appellate Tribunal and also of the relevant documents on which the applicant wants to rely in support of his application.

1010. Placing of application before the Court – The Prothonotary and Senior Master [1][or Officer-in-Charge at the concerned Bench] shall place such application before the Court on a day appointed by the Chief Justice. The Court may either reject the application summarily, or order a rule *nisi* to issue to show cause why the Order applied for should not be made. The rule shall be made returnable on such date as the Court may direct.

1. These words were inserted by G.N.No.G/Amend/3481, dated 20-7-1989, Pub.in M.G.G.Pt. IV-Ka,pp.202-204)

TOP

1011. Service of rule *nisi*- The rule *nisi* together with a copy of the application shall be served on the opposite party i.e. on the assessee or the Collector of Central Excise, as the case may be, at least fourteen days before the returnable date of the rule.

1012. Time for furnishing copies of application – On a rule being issued the applicant shall furnish to the Office of the Prothonotary and Senior Master [1][or Officer-in-Charge at the concerned Bench] two type written or cyclostyled or printed copies of such application with all its annexures at least one week before the day fixed for the hearing of the rule.

1013. Answer to rule *nisi* – Answer to the rule *nisi* shall be made on affidavit and the same shall be filed at least four days before the returnable date of the rule *nisi*. Two copies of such affidavit shall be furnished to the Office of the Prothonotary and Senior Master [1][or Officer-in-Charge at the concerned Bench]

1014. A copy of the Court's Order and Judgment to be sent to the Appellate Tribunal – Where the rule nisi is made absolute, the Prothonotary and Senior Master [1][or Officer-in-Charge at the concerned Bench] shall send a copy of the Court's Order and Judgment, if any, to the Appellate Tribunal.

1015. References and Applications to be heard by a bench – All references and applications under section 35 of the Act shall be heard by a bench of not less than two Judges appointed by the Chief Justice.

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1. These words were inserted by G.N.No.G/Amend/3481, dated 20-7-1989, Pub.in M.G.G.Pt. IV-Ka,pp.202-204)

TOP

CHAPTER LVII

RULES RELATING TO REFERENCES AND APPLICATIONS UNDER SECTION 82 OF THE GOLD (CONTROL) ACT, 1968 (ACT 82 OF 1968)

1016. References to be sent to the Prothonotary and Senior Master – All references under section 82 of the Gold (Control) Act, 1968 (hereinafter in this Chapter referred to "as the Act") shall be forwarded to the Prothonotary and Senior Master, and shall be dealt with on the Original Side of the High Court.

1017. Notice of reference to Party at whose instance the reference is made – When the Appellate Tribunal refers a case to the High Court, it shall give notice of that fact to the party at whose instance the reference has been made and shall call upon him to take such steps in the Office of the Prothonotary and Senior Master as may be necessary for bringing the reference to a final conclusion.

1018. Filing Statement of Case, issuing notice and fixing date for the hearing – The party at whose instance a reference has been made shall file the Statement of the Case in the Office of the Prothonotary and Senior Master and shall forth with take steps to bring the reference to a final conclusion. Such party shall apply to the Prothonotary and Senior Master to issue notice and to fix a date for hearing of the reference and shall serve the notice on the opposite party. If such party fails to take such steps for two months from the receipt of the reference in the High Court the Prothonotary and Senior Master may set down the reference on board for Orders. The Court may pass such order on the references as it may deem fit.

1019. Preparation of Paper Book – The party at whose instance a reference has been made shall prepare the paper book which shall contain the Statement of the Case and other papers forwarded by the Appellate Tribunal. The paper book shall be typed or cyclostyled, but the Prothonotary and Senior Master may, on the application of any party, direct that the paper book be printed. Two copies of the paper book shall be filed in the Office of the Prothonotary and Senior Master within two months from the date of the filing of the reference in the High Court.

TOP

1020. Failure to file Paper Book – In the event of non-compliance with the last preceding rule, the Prothonotary and Senior Master may, set down the reference on board for Orders. The Court may pass such order on the reference as it may deem fit.

1021. Application under section 82(3) – An application under sub-section (3) of section 82 of the Act, shall be presented to the Prothonotary and Senior Master. Such application shall be by Petition. There shall be annexed to such petition copies of the Order and Judgment, if any, of the Appellate Tribunal and also of the relevant documents on which the applicant wants to rely in support of his application.

1022. Placing of application before the Court – The Prothonotary and Senior Master shall place such application before the Court on a day appointed by the Chief Justice. The Court may either reject the application summarily or Order a rule nisi to issue to show cause why the Order applied for should not be made. The rule shall be made returnable on such date as the Court may direct.

1023. Service of rule nisi – The rule nisi together with a copy of the application shall be served on the opposite party i.e. on the assessee or the Collector of the Central Excise or of Customs, as the case may be, at least fourteen days before the returnable date of the rule.

1024. Time for furnishing copies of application – On a rule being issued the applicant shall furnish to the Office of the Prothonotary and Senior Master two typewritten or cyclostyled or printed copies of such application with all its annexures at least one week before the day fixed for the hearing of the rule.

1025. Answer to rule nisi – Answer to the rule nisi shall be made on affidavit and the same shall be filed at least four days before the returnable date of the rule nisi. Two copies of such affidavit shall be furnished to the Office of the Prothonotary and Senior Master.

1026. A copy of the court's Order and Judgment to be sent to the Appellate Tribunal – Where the rule nisi is made absolute, the Prothonotary and Senior Master shall send a copy of the Court's Order and Judgment, if any, to the Appellate Tribunal.

TOP

1027. References and applications to be heard by a bench – All references and applications under section 82 of the Act shall be heard by a bench of not less than two Judges appointed by the Chief Justice.

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TOP

[1][CHAPTER LVIII

RULES TO REGULATE PROCEEDINGS FOR CONTEMPT UNDER ARTICLE 215 OF THE CONSTITUTION OF INDIA AND THE CONTEMPT OF COURTS ACT, 1971

1028. Title – These Rules shall be called the Contempt of Courts (Bombay High Court) Rules, 1994.

1029. Commencement – They shall come into force on the date of publication.

1030. Definition – In these Rules, unless there is anything repugnant to the subject or context, -

(a) "Act" means the Contempt of Courts Act, . 1971 (No. 70 of 1971);

(b) "High Court" means the High court of judicature at Bombay and / or such other Court, as may be designated as such for the purposes of the Contempt of Courts Act, 1971.

(c) "Judge" means a Judge of the High court of Judicature at Bombay or of a court designated as such for the purposes of contempt of Courts Act, 1971;

(d) "Prothonotary" means the Prothonotary and Senior Master of the High Court and shall include the Additional Prothonotary and the Officer on Special Duty of designated Court;

(e) "Registrar" means the Registrar of the High Court and shall include Additional Registrar at Nagpur, Aurangabad or Goa;

(f) all the words and expressions used in these Rules but not defined therein shall have the meanings respectively assigned to them in the Act.

PART I

1031 (1).Where contempt of Court is committed in view or presence or hearing of Court, the contemnor may be punished by the Court before which Contempt is committed either forth with or on such date as may be appointed by the Court in that behalf.

1. Rule 1028 to 1053 inserted by G.N. No.G/Amend/3515, dated,30-3-1996, published in M. G. G. Part IV-Ka.p-369-373

TOP

(2) Pending the determination of the charge the Court may direct that contemnor shall be detained in such custody as it may specify:

Provided that the contemnor may be released on bail or on such other temrsas to undertakings or otherwise as the Court may direct.

PART II

1032. In case contempt of Court other than the contempt referred to in Rule 1031, the Court may take action-

(a) *suo motu,* or
(b) on a petition made by Advocate General,
(c) on a petition made by any person, and in the case of a criminal contempt with the consent in writing of the Advocate General,
(d) on a reference made to the High Court by any Subordinate Court in respect of Civil Contempt, or
(e) on a reference under section 15(2) of the said Act made by a subordinate Court either *suo motu* or on an application received by it.

COGNIZANCE AND PROCEDURE

1033. Parties to the Petition:-

(a) Every Petition for initiating proceedings for contempt of Court shall be registered as Contempt Petition.
(b) In a proceeding initiated by Petition the initiator shall be described as Petitioner and the opposite party as Respondent.
(c) In every Petition for criminal contempt, the State of Maharashtra shall be made a Respondent.

1034. (a) Every Petition or Reference under Rule 1032 (b), (c), (d) or (e) shall contain –

(i) the name, description and complete address of the Petitioner or Petitioners and of the person charged,

TOP

(ii) nature of the contempt alleged, and such material facts, including the date or dates off commission of the alleged contempt, as may be necessary for the proper determination of the case;

(iii) if a Petition has previously been made by him on the same facts, the Petitioner shall give the details of the Petition previously made and shall also indicate the result thereof;

(b) Every Petition under Rule 1032 (c) shall be supported by an Affidavit.

(c) Where the Petitioner relies upon a document or documents in his possession or power, he shall file such document or documents or true copies thereof with the Petition.

1035. (1) Every Petition or Reference under Rule 1032 (b), (c), (d) or (e) shall on being filed or received be forthwith posted before the Court for preliminary hearing and for orders as to issue of notice. Upon such hearing, the Court, if satisfied that a prima facie case has been made out for issue of notice, may issue such notice to the Contemnor and, if not so satisfied may dismiss the Petition.

(2) The Court may, if it thinks it absolutely necessary to do so, and where the Court is of the opinion that mere service of Notice, will not secure the presence of the Contemnor, alongwith issue of Notice, also issue a bailable or non-bailable warrant for arrest of the Contemnor.

1036. (1) Notice to the person charged shall be in Form I. The person charged shall, unless otherwise ordered, appear in person before the Court as directed on the date fixed for hearing of the proceeding, and shall continue to remain present during hearing till the proceeding is finally disposed of by the Order of the Court.

(2) When action is initiated on a Petition or a Reference, a copy of the Petition or the Reference alongwith the annexures and Affidavits shall be served upon the person charged.

1037. The person charged may file his reply by way of an Affidavit or Affidavits within 14 days from the service of the Notice or within such time as the Court may fix.

1038. No further Affidavit or document shall be filed except with the leave of the Court.

TOP

1039. (a) Reference under section 15(2) of the Act may be made by subordinate Courts either *suo motu* or on Application received by it.

(b) Before making a reference the Subordinate Court shall hold a preliminary enquiry by issuing a Show Cause Notice accompanied by copies of relevant documents, if any, to the contemnor and after hearing him the subordinate Court shall write a concise reasoned Order of Reference indicating the nature of the contempt and the person / persons alleged to have committed it.

1040. The High Court may, on its Appellate Side, entertain a Petition for Contempt of Subordinate Court. If it considers it necessary, it may direct the Subordinate Court to investigate into question of fact and make a report.

1041. Every Petition made by the Advocate General under sub-section (2) of section 15 of the Act shall state the relevant facts on the basis of which it is alleged that the contempt appears to have been committed by the person / persons named therein. The Petition shall broadly summaries the relevant material justifying filing of the Petition.

1042. Unless otherwise ordered by the Court, four copies of the Paper Book shall be prepared in the Office of the Prothonotary and Senior Master or the Registry, one for the petitioner, one for the opposite party and the remaining for the use of the Court. The Paper book shall consist of the following documents:

(i) Petition and Affidavits filed by the Petitioner,
(ii) A copy of, or a Statement relating to the objectionable matter or material constituting the alleged contempt.
(iii) Reply and Affidavit off the Opposite Party, if any?
(iv) Copies of Documents filed by the parties;
(v) Any other documents which the Prothonotary / Registrar may deem fit to include.

1043. The Court may direct the Advocate General to appear and Assist the Court.

TOP

1044. The Court may, if it has reason to believe, that the person charged is absconding or is otherwise evading service of notice, or if he fails to appear in person or to continue to remain present in person in pursuance of the Notice, direct a Warrant bailable or non-bailable for his arrest or may direct attachment or his property as may be specified in the Order by the Court. The Warrant shall be issued under the signature of the Prothonotary or Registrar or Officer on special Duty as the case may be. The warrant shall be executed, as far as may be in the manner provided for execution of Warrants under the Code of Criminal Procedure.

1045. The Court may pass such orders as it thinks fit including Orders as to costs which may be recovered as if the Orders were a Decree of the Court.

1046. (a) Every Notice issued by the High Court or Designated Court to the contemnor shall be accompanied by a copy of Petition or Reference, as the case may be, together with the copies of the Affidavits, if any.

(b) Such Notice issued by the High Court or Designated Court shall be signed and dated by the Prothonotary or Additional Prothonotary or Officer on Special Duty or Assistant Registrar and shall be sealed with the seal of the High Court or the concerned Court.

(c) Notice of every proceeding under this Act shall be served personally on the person charged, unless the Court, for reasons to be recorded, directs otherwise. In that case service may be effected in the manner prescribed under the Code of Civil Procedure and / or the High Court Rules or the Rules of the concerned Court for service of process.

1047. Whenever the High Court or Designated Court issued a Notice, it may dispense with the personal attendance of the person charged with the contempt and permit him to appear through an Advocate and in its discretion, at any stage of proceeding, direct the personal attendance of such person, and, if necessary, enforce such attendance in the manner hereinabove provided

1048. When an person charged with contempt appears or is brought before the Court or the designated Court such person / persons may be released on bail on such terms and conditions as the Court may deem fit and proper.

TOP

ENQUIRY

1049. (a) Any person charged with contempt, may file an Affidavit in support of his defence on the date fixed for his appearance or on such other date as may be fixed by the Court in that behalf.

(b) If such person refuses to plead guilt to the charge, his plea shall be recorded and the Court may, in its discretion, convict him thereon.

(c) If such person refuses to plead or does not plead, or claims to be tried or the Court does not convict him on his plea of guilt, it may determine the matter of the charge either on the Affidavits filed or after taking such further evidence as it deems fit.

1050. The Rules contained in the Bombay High Court Rules pertaining to grant of copies, process fees and translation of documents and such other matter in respect of which no provision is made in the Rule shall *mutatis mutandis* apply to the proceedings in the High Court and designated Court.

RULES TO REGULATE PROCEEDINGS FOR CONTEMPT UNDER ARTICLE 215 OF THE CONSTITUTION OF INDIA AND THE CONTEMPT OF COURT ACT, 1971

[1]**[1051(i).** Every Petition or reference in respect of Civil Contempt alleging willful disobedience of any ad-interim / interim or final order passed by the High Court shall be heard and disposed of by the concerned Division Bench or Single Judge, as the case may be, before which/whom the main matter is pending or before which/whom the main matter would lie, if it were pending.

1051(ii). Every Petition or reference in respect of Civil Contempt of Subordinate Court shall be heard and disposed of by a Single Judge.

1. Substituted vide Notification No. G/Amend/392 dt. 29th November, 2014 published in M.G.G., Part 4-C, dt. 01st December, 2014.

TOP

1051(iii). Notwithstanding anything contained in Sub Rules *(i)* and (ii), the Chief Justice may in his discretion assign to a Division Bench Contempt Petition which would otherwise lie before a Single Judge.

1051(iv). Notwithstanding anything contained in Sub Rules *(i)* and *(ii),* the Chief Justice, in his discretion, may assign Civil Contempt Petition to any other Division Bench or Single Judge.]

1052. (a) In case of contempt arising out of a proceeding on the Original Side of the High Court, the petition shall be filed on the Original Side of the High Court.

(b) In case of contempt arising out of a proceeding on the Appellate Side of the High Court, the Petition shall be filed on the Appellate Side.

(c) Petitions or References for Contempt of Subordinate Courts shall be filed on the Appellate Side.

(d) In case of contempt arising out of proceedings before the Designated Court, the petition shall be filed before the Designated Court. All the rules herein shall apply *mutatis mutandis* in respect of Contempt of the Designated Courts.

PART III

1053. Where a person charged with contempt is adjudged guilty and is sentenced to suffer imprisonment, a Warrant of Commitment and detention shall be made out under the signature of Prothonotary or Registrar or Officer on Special Duty as the case may be.]

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TOP

[1][CHAPTER LVIII – A

" Rules for presentation and conduct of proceedings in-person by parties"

Norms for Presentation and Conduct of proceedings in person by parties:-

1. Whenever a party wants to appear and argue the case in person, he/she shall first file an application alongwith the proceedings, seeking permission to appear in person. The application shall indicate reasons as to why he/she cannot engage an Advocate and wants to appear and argue in person, and if he is willing to accept an Advocate, who can be appointed for him by the Court.

2. Such application as filed alongwith the proceedings shall be placed before a Committee of two Officers of the Registry, who are working on deputation from the State Judicial Service, to be nominated by the Honourable the Chief Justice. The Committee shall scrutinies the matter/proceedings filed by Party-in-person so as to ensure that the Party-in-person has complied with the requirements of the Bombay High Court (Original Side) Rules, 1980 and that the party-in-person has not made any objectionable averments/ allegations and has not used unparliamentary language in the pleadings. The Committee shall interact with the Party-in-person and give opinion by way of Office Report whether Party-in-person will be able to give necessary assistance to the Court for disposal of the matter or an Advocate may be appointed as Amicus Curiae.

3. In case a Party, who wishes to defend his matter/proceedings in person as respondent/opponent, the Court may direct such party to appear before the above committee and the above Committee shall ensure and certify that such person is 'Competent' to assist the Court in person.

4. (a) If the certificate is not issued in both the cases mentioned in Rule 2 and 3 above and the party-in-person is lawfully entitled to be referred to the High Court Legal Aid Services Committee in accordance with law, the same will be referred to the Committee for offering legal services to the concerned litigant.

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1. Inserted vide High Court Notification No. G/Amend/654/2015, dated 09th September, 2015, published in M.G.G., Part 4-C, dated 17th – 23rd September, 2015.

TOP

(b) If the concerned litigant is not entitled under law to get assistance of Legal Aid Services Committee, he will be asked to appoint a lawyer to represent his case.

(c) In the event, it is certified that party-in-person is 'competent' to assist the Court in person, the party-in-person shall give an undertaking that he shall maintain decorum of the Court and shall not use or express objectionable and unparliamentary language or behavior during the course of hearing in the Court or in the Court premises or in the further pleadings.

5. If the party-in-person fails to abide by his undertaking as above, Contempt Proceedings may be initiated against him and/or appropriate costs shall be imposed on him and/or the concerned party will not be allowed to appear in any case as party in person for such period as the Court may thinks fit.

6. These Rules will not apply in the cases of applications for temporary bail, parole, furlough and habeas corpus.

7. Notwithstanding anything contained in these Rules, the concerned Court before which the matter lies, may, in its discretion, permit a litigant/s to appear in person and conduct the proceedings:

Provided, that the Court may, in its discretion, require the concerned litigant/s, first to appear before the Scrutiny Committee under Rule 2 or Rule 3, as the case may be.]

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TOP

[1][CHAPTER LIX

Rules relating to cases under the Companies Secretaries Act, 1980
(Act No. 56 of 1980)

1054. Case under Section 21 of the Act to be filed in Prothonotary's Office - A case (hereinafter in this Chapter referred to as a "Reference") received by the High Court under section 21 of the Company secretaries Act, 1980 (hereinafter in this Chapter referred to as the "Act") shall be filed in the Office of the Prothonotary and Senior Master and shall be numbered as a Reference and entered in a separate Register.

1055. Appeal or Revision Application under section 30 of the Act to be by Petition – An Appeal or Revision Application under section 30 of the Act Shall be made by Petition.

1056. Appeal or Revision Application to be filed in Prothonotary's Office – An Appeal or a Revision Application under section 30 of the Act shall be filed in the Office of the Prothonotary and Senior Master and shall be numbered as an Appeal or Revision Application under the Act and entered in a separate Register.

1057. In a Reference under section 21 of the Act, Council to forward papers to the Court – (1) The Council of the Institute of Company Secretaries of India (hereinafter in this Chapter referred to as the "Council") shall, in a Reference forwarded by it to the High Court under section 21 of the Act, file in the Office of the Prothonotary and Senior Master the finding of the Council and forward alongwith it the Report of the Disciplinary Committee and all other relevant papers which were before the Council and the Disciplinary Committee and, in particular, the following documents:

(a) Complaint or information,
(b) Written Statement of Defence,
(c) Depositions of Witnesses together with Exhibits,
(d) Notes of the hearing before the Disciplinary Committee and the Council

1. These Chapter was inserted by G.N. 7984, Pub. M.G.G. Pt. IV-Ka, p.521.

TOP

(2) The Council shall furnish to the Prothonotary and Senior the postal addresses of all persons on whom Notices are required to be served under section 21(6) of the Act and of the person who has made the complaint.

1058. Fixing date of hearing and issue of Notice – When a Reference, Appeal or Revision Application is filed in Court, the Prothonotary and Senior Master shall fix a date for the hearing of such Reference, Appeal or Revision Application and shall forth with issue Notices in Form Nos. 136,137 or 138 as the case may be.

1059. Service of Notices – (a) In the case of a Reference under section 21 of the Act, Notice shall be sent to (1) the Member of the Institute concerned, (2) the Council and (3) the Central Government.

(b) In the case of an Appeal under section 30 of the Act. Notices shall be sent to the Council

(c) In the case of a Revision Application under section 30(2) of the Act. Notice shall be sent to the Council and to the Member off the Institute complaint.

In all cases, Notices shall be sent by Registered post at the Addresses supplied by the Council and shall be served not less than one month before the date fixed for the hearing of the case.

1060. In Appeal or Revision Application under section 30 of the Act, Council to forward all papers to this Court on being served with Notice – In an Appeal or Revision Application, under section 30(1) of the Act, the Council shall, on being served with Notice of the Appeal or Revision Application, forward to the Prothonotary and Senior Master, within two weeks from the date of service, the findings of the Council and all other documents mentioned in Rule 1057(1) and the extra copies referred to in Rule 1057(3)

1061. Cases to be heard by a Bench of two Judges – References, Appeals and Revision Applications under the Act shall be heard by a Division Bench of not less than two Judges to be nominated by the Chief Justice.

TOP

1062. Copy of final Order to be sent to Council – The Prothonotary and Senior Master shall send to the Council a certified copy of the final Order passed by the High Court in every Reference, Appeal or Revision Application.]

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TOP

[1][CHAPTER-LX

SPECIAL JURISDICTION: ADMIRALTY JURISDICTION

RULES FOR REGULATING THE PROCEDURE AND PRACTICE IN CASES BROUGHT BEFORE THE HIGH COURT UNDER THE ADMIRALTY (JURISDICTION AND SETTLEMENT OF MARITIME CLAIMS) ACT, 2017.

1063. Definitions.—(1) In this Chapter, unless there is anything repugnant in the subject or context:

(*a*) "Suit in rem" means an Admiralty action in rem;

(*b*) "Court" means the High Court of Judicature at Bombay;

(*c*) "Judge" means a Judge of the court exercising admiralty jurisdiction and powers under the Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017;

(*d*) "Limitation action" means a suit commenced for setting up a limitation fund under the Merchant Shipping Act, 1958 as amended from time to time;

(*e*) "Officer designated by Registrar-General" means the Admiralty Registrar of the court;

(*f*) "Registry" means the office of the Registrar(O.S.)/Prothonotary and Senior Master;

(*g*) "Sheriff' means Sheriff of Mumbai or Deputy Sheriff or other officer who may be appointed to execute the process of the court;

(*h*) "Suit" means any suit, action or other proceeding instituted in the court in its admiralty Jurisdiction.

(2) The words and expressions used herein but not defined and defined in the Admiralty (Jurisdiction and Settlement of Maritime claims) Act, 2017 and the Merchant Shipping Act, 1958 shall have the meanings respectively assigned to them in those Acts.

1064. Institution of suits.—A suit shall be commenced by a plaint signed and verified according to the provisions of the Code of Civil Procedure, 1908 and by these rules.

1065. Admiralty Suit Register.—All suits filed in the admiralty Jurisdiction of this Court, whether *in rem* or *in personam*, shall be entered in a book to be kept in the registry called "Admiralty Suit Register" in which the number of the suit and the names of the parties will be entered including the name of the ship or its sale proceeds.

1066. Application to arrest ship in a suit in rem.—If the suit is in *rem*, an application for arrest of any ship proceeded against shall be made to the court and shall be supported by an affidavit. The affidavit shall state the nature of the claim and that it has not been satisfied. It shall also state the nationality of the ship to be arrested and the port at which it is to be arrested and whether a valid caveat against arrest has been filed.

1067. Undertaking in damages.—A party applying under Rule 1066 shall give an unconditional and irrevocable undertaking in writing to pay such sum of money or kind of security in such sum and upon such terms as may be determined by the court for any loss or damage which may be incurred by or caused to the defendant or any other party as a result of the arrest of the ship and for which the plaintiff may be found liable. This undertaking shall not stand discharged or released notwithstanding any order permitting the suit to be withdrawn.

1068. Execution of warrant of arrest of ship.—

(*a*) A ship may be arrested under a warrant of arrest issued pursuant to an order of arrest made by the court.

1. Inserted Notification No. G/Amend/12879, dated. 07.02.2020

TOP

(*b*) Unless otherwise ordered by the court, a warrant of arrest shall be issued pursuant to an order of arrest made by the court and may be executed only by the Sheriff.

(*c*) The court may dispense with issue or service of any warrant of arrest if the circumstances so require, in which event the ship shall be deemed to be arrested upon service of the order of arrest made by the court. The order of arrest shall be served in the same manner as a warrant of arrest on in such other manner as the Judge may direct.

1069. Arrest of ship not to prevent loading/discharge, etc.—The arrest of a ship shall not prevent loading and/or discharging of cargo or the ship being shifted within the port limits under directions of the Port Authority.

1070. Service of writ of summons, or warrant of arrest, when dispensed with in a suit in rem.—In a suit in rem no service of writ of summons or warrant of arrest shall be required, when the advocate for the defendant agrees—

(*a*) to accept service having entered a caveat or otherwise; or

(*b*) to give security or to pay money into court; or

(*c*) where the warrant of arrest or the order of arrest is served on the ship.

1071. Service of writ of summons or warrant of arrest or order of arrest in a suit in *rem* how effected.—

(*a*) In a suit in rem, writ of summons, warrant of arrest or order of arrest shall be served on the ship against which the suit is brought.

(*b*) Service shall be effected by serving the original writ of summons or warrant of arrest or order of arrest on the master of the ship or as otherwise directed by the Judge.

(*c*) The plaintiff shall serve a copy of the plaint and all other proceedings and documents upon the advocate who claims to represent the ship or its owner upon the advocate giving an undertaking to enter appearance on behalf of the ship and/or its owner.

1072. Caveat against arrest of ship.—

(*a*) Any person desiring to prevent the arrest of any ship shall file in the registry a praecipe, signed by himself or his Advocate, who may be acting for him, requesting for entering caveat against the arrest of such ship and undertaking to enter appearance in person or by vakalatnama in any suit that may be instituted against such ship and undertaking to give security in such suit in a sum not exceeding the amount to be stated in the praecipe or to pay into the registry such sum. The caveat shall contain the name, address and email address of the caveator and/or his advocate, as the case may be. Caveat against issue of a warrant or order of arrest of such ship shall thereupon be entered in a book to be kept in the registry, called “Caveat Warrant Book”. The Caveat Warrant Book shall state the amount of security that the Caveator has undertaken to provide as per the praecipe.

(*b*) The fact that there is a caveat against arrest in force shall not event a party from applying for a warrant or order of arrest and the ship to which the caveat relates, arrested without notice to the Caveator. Where any ship with respect to which a caveat against arrest is in force is arrested in pursuance of a warrant or order of arrest, the person at whose instance the caveat has been entered may apply to the court by way of an interim application for an order under this rule and, on the hearing of the application, the court, unless it is satisfied that the person procuring the arrest of the ship had a good and sufficient reason for so doing, may order discharge of the warrant or order of arrest and may also order such person to pay to the applicant, damages in respect of the loss suffered by the applicant as a result of the arrest.

TOP

1073. Caveat against release of arrested ship.—Any person desiring to prevent the release of any ship under arrest shall file in the registry a praecipe, signed by himself or his advocate, who may be acting for him, requesting for entering caveat against the release of such ship. The caveat shall contain the name, address and email address of the caveator and/or his advocate, as the case may be, and the nature and amount of the claim of the caveator. Caveat against the release of the ship shall thereupon be entered in a book to be kept in the registry, called "Caveat Release Book" containing details referred to above.

1074. Caveat against payment out of sale proceeds of ship.—Any person desiring to prevent payment out of court of any money in court representing the proceeds of sale of any ship shall file in the registry a praecipe signed by himself or his advocate who may be acting for him, requesting for entering caveat against payment out of court of such proceeds of sale. Caveat against payment out of court of such sale proceeds shall thereupon be entered in a book to be kept in the registry, called the "Caveat Payment Book". The caveat shall mention the amount, nature and details of the claim of the caveator and details of any suit or proceedings in respect thereof. Such details shall be entered in the Caveat Payment Book.

1075. Ship not to be released and payment out of sale proceeds of ship not to be made unless notice is given to the caveator.—No ship arrested under a warrant or order shall be ordered to be released and no payment out of sale proceeds of any ship shall be made, unless two working days' notice is given to the person who has filed a caveat against the release of the ship or caveat against payment out of sale proceeds of the ship and whose caveat is valid at the time of giving such notice.

1076. Duration of caveat.—A caveat, whether against the issue of a warrant or order of release of ship or payment of money out of its sale proceeds, shall be valid for six months from the date of its entry. The period of validity of a caveat shall not be extended, though the caveator shall not be prevented from entering of successive caveats.

1077. Withdrawal of caveat.—A caveat may be withdrawn by the party on whose behalf it has been entered, but the praecipe to withdraw the caveat shall, unless otherwise permitted by the Admiralty Registrar, be signed by the person who signed the praecipe for entering the caveat.

1078. Discharge and setting aside of caveat.—

(a) A caveat against release of any ship shall stand discharged upon an order for release of the vessel provided two working days' notice prior to the application for release of the arrested ship is given to the caveator.

(b) An application to set aside a caveat may also be made by an interim application supported by an affidavit.

(c) The party delaying the release of any ship by entry of a caveat shall be liable to be pay costs and damages in respect of the loss suffered by the applicant by reason of the delay caused due to the entry of the caveat, unless he shall show, to the satisfaction of the court, good and sufficient reason for having entered the caveat.

1079. Service of plaint and proceedings on party entering caveat.—Any person before applying for arrest of any ship shall serve a copy of the plaint upon the party on whose behalf the Caveat has been entered in the caveat Warrant Book or upon his advocate and make a statement to that effect in the affidavit in support of the application for arrest.

1080. Party entering caveat to give security.—Within three working days from the service of the plaint and other proceedings, the party on whose behalf the caveat has been entered shall, give security for the sum specified in the caveat or the amount claimed in the suit, whichever is lower, or pay such sum into the registry.

TOP

1081. On default suit may proceed ex-parte.—After expiry of the period provided in Rule 1080, if the party on whose behalf the caveat has been entered shall not have given security in such sum or paid the sum into the registry in accordance with rule 1080, the plaintiff may apply to the court to set down the suit forthwith for hearing as an undefended suit:

Provided that the court may on good cause shown and on such terms as to payment of costs, as it may impose, extend the time for giving security or paying money into the registry.

1082. Judgment and enforcement of payment.—When the suit comes before the court, if the court is satisfied that the claim is well founded, it may pronounce judgment for the amount which appears to be due, and may enforce the payment thereof by order and attachment against the party on whose behalf the caveat has been entered, and by the arrest of the ship if it then be, or thereafter comes, within the jurisdiction of the court.

1083. Sheriff may apply for directions.—The Sheriff may at any time make a report to the court and apply for directions with respect to the ship under arrest in a suit. The court may direct notice of the application to be given to any person concerned with the ship before passing orders on the report.

1084. Sheriffs expenses.—In the event any expenses are required to be incurred by the Sheriff during the period of the arrest for the safety and preservation of the ship and its crew, the Sheriff shall make a report to the court and the court, shall after hearing the parties direct payment of such sums as the court may deem fit by any party the Sheriff for incurring such expenses, which shall be treated as Sheriffs expenses. These expenses shall be paid in priority to the Sheriff from the sale proceeds of the ship or by the defendant or other party seeking release of the ship as the case may be, and the same shall be reimbursed to the parties who have paid the amounts to the Sheriff in the first instance.

1085. Application for sale of arrested ship.—In a suit in rem, if the ship proceeded against has been arrested, the plaintiff may, at any time after service of writ of summons or warrant of arrest or order of arrest upon the defendant, apply to the court by way of an interim application for an order of sale of the arrested ship by the Sheriff and payment of sale proceeds into the registry to the credit of the suit.

1086. Interveners.—

(*a*) Where a ship against which a suit in rem is brought is under arrest or money representing the proceeds of sale of that ship is in court, a person who has interest in that ship or money but who is not a defendant to the suit may, with the leave of the Judge, intervene in the suit.

(*b*) An application for grant of leave under this rule may be made ex-parte by an affidavit showing the interest of the applicant in the ship against which the suit is brought or in the money held in court.

(*c*) A person to whom leave is granted to intervene shall thereupon become a party to the suit and shall file an appearance in person or by vakalatnama within the period specified in the order granting leave. On filing such appearance or vakalatnama, the intervener shall be treated as if he were a defendant in the suit.

(*d*) The Judge may order that a person to whom he grants leave to intervene in a suit, shall, within such period as may be specified in the order, serve on every other party to the suit such pleading as may be specified.

1087. Order for sale of ship and determination of priority of claims.—

(*a*) Where in a suit in rem the ship proceeded against is sold and the sale proceeds are paid into court, any party who has obtained or obtains a decree or judgment against such ship or proceeds of sale may apply to the court by interim application for an order determining the order of priority of claims against the proceeds of sale of such ship.

TOP

(*b*) All persons who have filed caveats against payment out of sale proceeds of the ship shall be joined in the interim application and be heard.

(*c*) The order of priorities shall be in accordance with the provisions of Sections 9 and 10 of the Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017 read with these rules.

(*d*) When an application is made under sub-rule (a), the Sheriff shall send for publication in such newspapers as the court may direct, a notice complying with the provisions of sub-rule (e).

(*e*) The notice referred to in sub-rule (d) shall state—

(*i*) that the ship (particulars to be specified) has been sold by an order of the High court in a suit in rem giving the number of the suit and the names of the parties to the suit;

(*ii*) that the gross proceeds of the sale, specifying the amount thereof, have been paid into court;

(*iii*) that the order of priority of claims against the sale proceeds will not be determined until after the expiration of the period (specifying it) specified in the order ;

(*iv*) that any person having a claim against the ship or the proceeds of sale thereof, should file a suit to prove his claim before the expiration of that period.

(*f*) The Sheriff shall lodge in the registry a copy of each newspaper in which the notice referred to in sub-rule (e) has appeared.

(*g*) The expenses incurred by the Sheriff in complying with an order of the court under this rule shall be included in his expenses relating to the sale of the ship. Any expense incurred by the Sheriff, shall, at the first instance, be paid by the party at whose request the order under sub-rule (a) is made. The party shall be entitled to be reimbursed such expenses incurred from the sale proceeds paid into court after taxation by the Taxing Master of the court or as directed by the court.

(*h*) An application to extend the period referred to in sub-rule (e) (iii) shall be made by interim application in the suit in which any order for determination of priorities is sought, with notice to all persons who have filed a suit against the ship or its sale proceeds or have filed a caveat against payment of sale proceeds of the ship.

(i) If upon determination of the order of priorities it appears to the court that any party who has obtained a decree is entitled to be paid in priority over all other claims then such party shall be at liberty to file an interim application for payment out of the sale proceeds.

1088. Publication of notice inviting claims after sale of ship.—

Notwithstanding what is stated in Rule 1087 the court, on an application of any party who has a claim against the ship or its sale proceeds, may, after the sale proceeds are paid into court, direct the Sheriff to send for publication in such newspapers as the court may direct a notice in accordance with sub- Rule (e). Sub-rules (f), (g) and (h) shall apply to such notice.

1089. Release of arrested ship.—Subject to the provisions of this rule, a ship arrested may be ordered to be released:

(*a*) at the request of the Plaintiff, and after notice to all persons whose caveats entered in the Caveat Release Book are valid before an appearance in person or a vakalatnama is filed by the defendant; or

(*b*) on the defendant or an intervenor who has interest in the arrested ship, furnishing security -

(*i*) by paying into court the amount ordered by the court to be deposited by way of security in the suit; or

TOP

(*ii*) by providing a bank guarantee in the suit in accordance with Rule 1102 for such amount as may be ordered by the court; or

(*iii*) in such amount or in such manner as may be agreed between the parties.

(*c*) On any other ground that the court may deem just and proper on an application made for release of the arrested ship.

1090. Security by third party.—In the event security as provided in sub-rule (b) of Rule 1089 is furnished by an intervenor, such security will beavailable to the plaintiff in the event the plaintiff succeeds in the suit in respect of the claim against the ship and/or its owners.

1091. Return of security.—Nothing in these rules shall preclude a defendant from making an application to the court at any stage for return and/or reduction of any amount deposited in court or for return and/or reduction of security provided for release of the arrested ship.

1092. Order of Release of arrested ship.—A ship arrested under an order of arrest shall only be released by an order of the court and upon notice to the Sheriff of Mumbai and to all parties who may have filed a caveat against release of the arrested ship.

1093. Release by Sheriff on lodging praecipe with the order of release.—The order of release when obtained shall be lodged with a praecipe in the office of the Sheriff by the party obtaining the same and the Sheriff shall thereupon release the ship by taking all necessary steps in that regard and communicating the order of release to the relevant port and customs authorities as the case may be.

1094. Sale by order of the court.—Every sale ordered by the court shall, unless the Judge shall otherwise order, be made by the Sheriff in like manner as a sale of movable property in execution of a decree in an ordinary civil suit, and the Sheriff shall be entitled to receive fees or poundage as provided in Rule 1100.

1095. Procedure by Sheriff on sale of ship.—The Sheriff shall pay into court the gross proceeds of sale of any ship sold by him, and shall at the same time bring into the registry the account of sale, with vouchers in support thereof, for taxation by the Taxing Master of the court, to whom the same shall be transmitted by the Admiralty Registrar.

1096. Assessors.—

(a) The court may, if it thinks fit, and shall upon request of either party to the suit, summon for its assistance, in such manner as it may direct, two competent assessors who shall attend and assist the court in hearing any suit or cause relating to salvage, towage, or collision.

(b) The appointment of assessors shall be made by the court having regard to the nature of the suit and the qualification and experience of the person to be appointed.

(c) Every such assessor shall receive fees and expenses for his attendance as may be determined by the court and to be paid by such of the parties as the court may direct.

1097. Appearance before Taxing Master.—Any person interested in the proceeds may be heard before the Taxing Master on the taxation of the account of expenses, and an objection to the taxation shall be heard in the same manner as an objection to accounts filed before the Commissioner for Taking Accounts.

1098. Payment of monies.—All monies to be paid into court shall be paid to the Admiralty Registrar.

1099. Payment of money out of court.—Money paid into court shall not be paid out of court except in pursuance of an order of the court.

TOP

1100. Table of Fees payable to the Sheriff.—The fees payable to the Sheriff of Mumbai for suits and matters covered by these rules shall be as follows:—

	Fees for or on	Rs.
a.	Fees for serving each summons or notice to a defendant or a witness.	Rs. 500.00
b.	Fees for executing a warrant of arrest or order of arrest.	Rs. 500.00
c.	Fees for serving any injunction, order or process not otherwise provided for.	Rs. 500.00

1101. Claims for compensation.—Any claim for payment of damages as compensation for any loss sustained by an order of arrest may be made by way of an interim application or suit or counterclaim.

1102. Security.—Unless otherwise ordered by the court or agreed by the parties, security shall be given by payment into court or by way of a bank guarantee.

1103. Claim for salvage of cargo.—Notwithstanding anything contained in these rules, in case of a suit for salvage, if there is a claim against cargo on board the ship or onshore, it shall be open to the claimant to institute a suit in *rem* against the cargo and the provisions of these rules shall apply *mutatis mutandis* to such suit as if the property to be arrested is cargo in place of the ship.

1104. These rules shall also be applicable to proceedings filed under the Merchant Shipping Act, 1958 as amended from time to time.

1105. For the purposes of Limitation of Liability under Part XA of the Merchant Shipping Act, 1958 the following shall apply:—

(*a*) *Limitation of Liability*.— Any application for limitation of liability filed under Part XA of the Merchant Shipping Act, 1958, as amended, shall be by way of a suit as contemplated in this Chapter.

(*b*) *Person seeking relief to be plaintiff*.— In a limitation action the person seeking relief shall be the plaintiff and shall be described in the plaint by his name.

(*c*) *Plaintiffs to make as defendant/s person/s with claims or possible claims.*— The Plaintiff shall make one or more or all known persons with claims or possible claims against him in respect of the casualty/occurrence to which the action relates, Defendant(s) to the Suit.

(*d*) *Defendant(s) to be named*.— All persons to be named as defendants, as provided under Sub Rule (c), must be named in the suit by their names. At least one defendant to the action must be named in the suit by his name but the other defendant(s) may be described generally (if not by their names).

(*e*) *Service of writ of summons*.—The writ of summons in a limitation action must be served on one or more of the defendants who are named by their names therein.

(*f*) *Publication of institution of suit*.—

(*i*) In addition to service of writ of summons, publication of the institution of the suit and the cause of action, reliefs claimed and the returnable date of writ of summons shall be made as prescribed in the court's general rules, the web site of the court, one vernacular newspaper at Mumbai and also in Lloyds List, London or Trade Winds, London or as directed by the court.

(*ii*) Where the casualty has arisen in a foreign country, the court may in its discretion direct that the publication must also be made in a local newspaper in that country.

TOP

1106. Affidavits of service.—The Plaintiff(s) shall within two weeks of the service of writ of summons and publication of the notice in compliance with sub-rule (f) file an affidavit of service in which the plaintiff(s) shall state the following :—

(*a*) The names and addresses of the defendants who have been served with the writ of summons along with proof of service attached thereto;

(*b*) Proof of publication as provided in Rule 1107 above.

1107. Publication of notice.—All public notices issued under these rules including notice for determination of priorities under Rules 1087 and 1088 and notice for sale of ship under Rule 1094 and notice of publication of limitation action under sub-rule (f) of Rule 1105 shall be published on the website of the court and also on the website of the Sheriff.

1108. Rules and practice of on the Original Side of court to apply, if not inconsistent with the rules in this Chapter.—The rules, practice and procedure of the court in the matter of suits and proceedings on the Original Side of the court shall, if not inconsistent with the rules in this part, apply to suits and proceedings on the Admiralty Side of the court.

1109. Forms of Admiralty Division to be followed.—

1. Caveat against arrest of vessel shall be in Form [139];
2. Undertaking to pay damages shall be in Form [140];
3. Judge's order for arrest of vessel shall be in Form [141];
4. Warrant of arrest shall be in Form [142];
5. Caveat against release of vessel shall be in Form [143];
6. Caveat against release of sale proceeds shall be in Form [144]

1110. Supersession of rules.—The rules contained in this Chapter shall apply to suits brought in the court in the exercise of its Jurisdiction under the Admiralty (Jurisdiction and settlement of Maritime Claims) Act, 2017 in supersession of all former rules.

High Court of Judicature at Bombay,
Dated 7th February 2020.

S. B. AGRAWAL,
Registrar General.

TOP

SCHEDULE OF FORMS

Form No. 1

Application for Registration (Rule 3)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORIGINAL SIDE

To

The Prothonotary and Senior Master,

High Court, Bombay.

Sir,

Please enter my/our/firm's name in the Register of Advocates under Rule 3 of the Original Side Rules. I/We furnish the following particulars :-

(i) Full name, (in case of a firm, name of the firm and full names of all partners) (Surname should be first).

(ii) Date of enrolment (in case of a firm, date of enrolment of each partner).

(iii) Address of Office as provided in Rule 6 and full name of the Clerk or Clerks who will accept service.

(iv) Full name of the Registered Court Clerk or Clerks as provided in Rule 8.

I/We undertake to strictly abide by the rules in Part I of the High Court, Original Side Rules and to inform you immediately of any change in the above particulars.

Yours faithfully,

TOP

[1]Form No. 2

Proposal to designate Advocate as Senior Advocate (Rule 24)

To

The Honourable the Chief Justice and the Judge of the High Court of Judicature at Bombay.

MAY IT PLEASE YOUR LORDSHIPS :

I, ... propose Shri/Shrimati/ Kumari ..... who was enrolled as an Advocate

(Names etc).

by the Bar Council of Maharashtra on .....and who continues to be

(Date)

on the Roll of Advocates maintained by the said Bar Council and who had been practising in this Court/in the ..... Court ..... at for the last ..... year for being designated as Senior Advocate, as in my opinion by virtue of his/her ability, experience and standing at the Bar he/she is deserving of such distinction.

Dated this ..... day of .....19 .

I hereby express my consent to be ..... designated as Senior Advocate.

Dated this ..... day of 19

(Signature of the Advocate concerned)

(Signature of the Senior Advocate)

1 . Form No. 2 was deleted by G. N. No. G/Amend/12878 dated 6-9-2007, Pub. In M.G.G., Part IV-C, p. 271.

TOP

[1]Form No. 2A[2]

Proforma of Biodata

1. Name.
2. Father's/Husband's Name.
3. Address.
4. Permanent Address.
5. Age.
6. Date of Enrolment.
7. If a member of any Association of Lawyers.
8. Number of years of practice (or Judicial Service) and in which Court.
9. If specified in any stream.
10. (a) Whether he/she has been a Chamber, If so, name of such Lawyers and the period held as such.
    (b) Whether any junior Lawyer is attached to his/her Chamber. If so, names of such Lawyers and the period held as such.
11. Whether he/she is an assessee under the Income tax Act in respect of his/her provisional income.
12. Whether he/she is on the panel of or holds any office under the State or Central Government.
13. Reference to any important matter in which he/she appeared.
14. Whether he/she has made any publication in any Journal. If so, give the particulars.
15. Whether he/she attended or participated in any Seminar Conference relating to law.
16. Whether he/she is connected with any Faculty of Law.
17. Whether his/her name was earlier proposed for being, designated as Senior Advocate of the Bombay High Court or any other High Court or of the Supreme Court of India. If so, the decision thereon.
18. Other information/particulars, if any, including legal-aid work.

K.B. POOJARI

Bombay, 5th May 1992.

Additional Prothonotary and Senior Master,
High Court, Bombay.

(Signature of the Advocate concerned)

(Signature of the Senior Advocate)

1 . Form No. 2A inserted vide M. G. G. , dated 25-06-1992
2 . Form No. 2A deleted by G. N. No. G/Amend/12878 dated 6-9-2007, Pub. In M.G.G. Part IV-C P. 271

TOP

Form No. 3

Verification of plaints and other pleadings. (Rule 44)

I, ... the ..... abovenamed, solemnly declare that what is stated in paragraphs ..... is true to my own knowledge, and that what is stated in the remaining paragraphs ..... is stated on information and belief, and I believe the same to be true.

Solemnly declared at Bombay)

this ..... day of ..... 19 .)

Before me,

Assistant Master/Associate,

High Court, Bombay.

Form No. 4

Appearance of party in person (Rules 49 and 56)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. OF 19

..... PLAINTIFF

versus

..... DEFENDANT

To

The Prothonotary and Senior Master,

High Court,

Bombay.

Sir,

Please enter my appearance in the above suit.
My address for service is as under :-
(here give address for service).

Dated this ... . day of ....19 .

.....

(Signature of the Plaintiff Defendant)

TOP

[1]Form No. 5

Advocate's Vakalatnama (Rule 49 (b))

"I/WE AM/ARE NOT A MEMBER/MEMBERS OF THE WELFARE FUND, THEREFORE, STAMP/STAMPS OF Rs. 2/- IS/ARE NOT AFFIXED HEREWITH.

N.B. - STRIKE OUT WHAT IS NOT APPLICABLE"

[Enforced w.e.f. 10th June 1991]

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. OF 19

. . . . . PLAINTIFF.

versus

. . . . . DEFENDANT.

To

The Prothonotary and Senior Master,
High Court,
Bombay.

Sir,

I, the plaintiff / defendant abovenamed, do hereby appoint .....

Advocate / Supreme Court Advocate to act, appear and plead on my behalf in the above suit.

In witness whereof, I have set and subscribed my hand to this writing at Bombay.

Dated this ..... day of ..... 19 .

Accepted :-

.....

(Signature of the Plaintiff / Defendant)

Signature of the

Advocate / Supreme Court Advocate

Address:

1. Form No. 5 was inserted vide MGG, dated 23-05-1991.

TOP

Form No. 6

Petition to appoint *guardian ad-litem*. (Rule 64)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. OF 19

In the matter of ....., a minor and in the matter of Suit No. ..... wherein ..... is the Plaintiff and the ..... is the defendant.

..... Petitioner.

To

The Honourable the Chief Justice and Judges of the High Court.

The Petition of the Petitioner abovenamed

Sheweth:-

1. That ..... is desirous of bringing a suit in this Honourable Court against .....
2. That ..... is a minor under the age ..... having been born on ..... being the age of .....

   (State the date of birth, if known or otherwise state the age).
3. That ..... is the guardian of the minor appointed or declared by an authority competent in that behalf or the testamentary guardian or the natural guardian of the minor.
4. That the said minor is in the care of ..... and resides with him.
5. That your petitioner has by letter dated ..... served on ..... requested ..... to consent to act as guardian for the suit of the said minor.
6. That hereunto annexed is his consent in writing ..... or That the said ..... has neglected or refused to give such consent (state reason if any) but that ..... has by the consent hereto annexed signified his willingness to act as such guardian.
7. That the said ..... has no interest directly or indirectly adverse to that of the minor.
8. That he is otherwise a fit and proper person to be such guardian.

Your petitioner therefore prays that the said ..... or some other fit and proper person be appointed guardian for the suit for of the said minor defendant.

TOP

Form No. 7

Notice of application to appoint *guardian ad-litem.* (Rule 66)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. OF 19

In the matter of ..... a minor and in the matter of ..... Suit No. ..... wherein ..... is the Plaintiff and ..... is the defendant.

..... Petitioner.

To

Take notice that the plaintiff in the above suit has applied ..... to this Court to have ..... or some other fit and proper person appointed guardian for the suit of the said minor defendant and that the Prothonotary and Senior Master will on the ..... day of ..... 19 proceed to appoint the said ..... or some other fit and proper person to lie such guardian unless you or any of you appear and show good cause against such appointment or propose some more fitting person.

Dated this ..... day of ..... 19 .

Prothonotary and Senior Master.

Sealer

The ..... day of ..... 19 .

Advocate for .....

TOP

Form No. 8

Writ of summons in a matrimonial suit other than a suit under the Indian Divorce Act, 1869. (Rule 69)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. OF 19

..... PLAINTIFF

versus

..... DEFENDANT.

To

..... (Defendant)

Whereas the plaintiff abovenamed has instituted a suit against you, as set out in the plaint herein, whereof the following is a concise statement, viz:-

You are hereby summoned to appear in this Court to answer the plaintiff's claim on the ..... day of ..... 19 at 11 O'clock in the forenoon, either in person, or by an Advocate entitled to practice in this Court duly instructed and able to answer all material questions relating to the suit, or who shall be accompanied by some other person able to answer all such questions and as the day fixed for your appearance is appointed for the final disposal of the suit, you are required to produce all your witness on that day and all the documents upon which you intend to rely in support of your defence, and

Take notice that in default of your appearance either in person or by an Advocate on the day before mentioned, the suit will be heard and determined in your absence.

Witness ..... Chief Justice at Bombay aforesaid, this ..... day of ..... 19 .

Prothonotary and Senior Master

Sealer

The ..... day of ..... 19 .

Advocate for the Plaintiff :

Address :

N.B.-A copy of the plaint will be furnished to the defendant by the plaintiff or his Advocate on demand.

TOP

[1]Form No. 9

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT No. _____ OF _____

Plaint Presented and filed on _____ day of _____ , 202__.

SUMMONS to answer Plaint under Section 27 O.V. rr.1, 5, 7 and 8 and O.VIII, r.1 & 9 of the Code of Civil Procedure.

...Plaintiff

VERSUS

...Defendants

To,

1.

The Defendants above named

Whereas the above named Plaintiff has instituted a suit against you, as set out in the Plaint annexed herewith.

You are hereby required to file in this Court an appearance in person or a Vakalatnama and a written statement of your defence and serve a copy of the written statement on the Plaintiff within 30 days from the service of this summons upon you and in case you fail to file the written statement within the said period of 30 days, you shall be allowed to file the written statement on such other day, as may be specified by the Court, for the reasons to be recorded in writing, but which shall not be later than ninety days from the date of service of summons, as per Order VIII, Rule – 1 of Civil Procedure Code, 1908.

And whereas the suit will be placed for directions on the board of the Prothonotary and Senior Master on such date as may be directed by him, for directions as to

1. Substituted vide Notification No. G / Amend/610/2022, dated-24-03-2022

TOP

the date of trial and other matters concerning the suit.

Take further notice that if you fail to file your appearance in person or a Vakalatnama and written-statement as directed above, or if you fail to appear before the Prothonotary and Senior Master the suit may be ordered to be set down on Board on any subsequent day as "undefended" and you will be liable to have a decree or order passed against you.

Witness Shri Chief Justice

at Bombay aforesaid, this _____ day of _____, 202___.

For Prothonotary and Senior Master.

Sealer

This _____ day of _____, 202__.

Advocate for the Plaintiff :
Address :

Advocates for the Plaintiff

You are hereby informed that the Free Legal Service from the State Legal Service Authorities, High Court Legal Services Committees, District Legal Services Authorities and Taluka Legal Service Committees as per eligibility criteria are available to you and in case you are eligible and desire to avail the free legal services, you may contact any of the above Legal Services Authorities/Committees.

N.B.-A copy of the plaint alongwith all annexures there to, certified as true copy by Advocate for Plaintiff, is enclosed herewith.

Note: Next date in this Suit is …./….202___. Please check the status and next / further date of this Suit on the official web-site of the High Court - https://bombayhighcourt.nic.in/

****

TOP

In the High Court of Judicature at Bombay
Ordinary Original Civil Jurisdiction
Suit No. _____ of _____

_____...Plaintiff

Vs.

_____ ...Defendant

Summons to answer Plaintiff

Returned and filed the _____ day of 20

ADVOCATE FOR THE PLAINTIFF

TOP

[1]Form No.9A

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION /
IN IT'S COMMERCIAL DIVISION / COMMERCIAL APPELLATE DIVISION

---------- of ---------- Plaintiff

Against

---------- of ---------- Defendant

To,
(Name, description and place of residence of Defendant)

Whereas Plaintiff above named has instituted a suit relating to a commercial dispute against you and you are hereby summoned to file a written statement within 30 days of the service of the present summons and in case you fail to file the written statement within the said period of 30 days, you shall be allowed to file the written statement on such other day, as may be specified by the Court, for reasons to be recorded in writing and on payment of such costs as the Court deems fit, but which shall not be later than 120 days from the date of service of summons. On expiry of one hundred and twenty days from the date of service of summons, you shall forfeit the right to file the written statement and the Court shall not allow the written statement to be taken on record.

Take notice that, in default the Suit may be taken up for a decree or order against you for want of Written Statement.

Witness Shri Chief Justice

at Bombay aforesaid, this _____ day of _____20

for Prothonotary and Senior Master

Sealer

The ____ day of _____ 20__

You are hereby informed that the legal services from the State legal Services Authorities, High Court Legal Services Committees, District Legal Services Authorities and Taluka Legal Services Committees as per eligibility criteria are available to you, and in case, you are eligible and desire to avail the free legal services, you may contact any of the above Legal Services Authorities / Committees.

1 . Inserted vide Notification No. G / Amend/610/2022, dated-24-03-2022

TOP

Advocate for Plaintiffs,

N.B.- A copy of the plaint alongwith all annexures thereto, certified as true copy by Advocate for Plaintiff, is enclosed herewith.

Note : Note : Next date in this suit is ..../..../20... .
Please check the status and next/further date of this suit on the official website of the High Court- https://bombayhighcourt.nic.in/

TOP

Form No. 10

Writ of Summons in a summary suit. (Rule 69)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. OF 19

..... PLAINTIFF.

versus

..... DEFENDANT. To

..... (Defendant)

Whereas the plaintiff abovenamed has instituted a suit against you under Order XXXVII of the Code of Civil Procedure, 1908, as set out in the plaint herein, whereof the following is a concise statement. viz:-

You are hereby summoned to cause an appearance in person or a Vakalatnama to be entered for you in this Court within ten days from the service hereof upon you; in default whereof the plaintiff will be entitled at any time after the expiration of such ten days to obtain a decree for any sum not exceeding the sum of Rs. ..... and the sum of Rs. ..... for costs together with such interest, it any, as the Court may order.

If you cause an appearance in person or a Vakalatnama to be entered for you, the plaintiff will thereafter serve upon you a Summons for Judgment at the hearing of which you will be entitled to ask the Court for leave to defend the suit.

Leave to defend may be obtained if you satisfy the Court by affidavit or otherwise that there is a defence to the suit on the merits or that it is reasonable that you should be allowed to defend the suit.

Witness ....., Chief Justice at Bombay aforesaid, this ..... day of ..... 19 .

Prothonotary and Senior Master.

Sealer

The ..... day of ..... 19 .

Advocate for the plaintiff :

Address :

TOP

Form No. 11

Summons for judgment in summary suit. (Rule 221)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. OF 19

..... PLAINTIFF.

versus

..... DEFENDANT.

Let all parties concerned attend before the Judge in Chambers on the ..... day of ..... 19 at 11 O'clock in the forenoon at the hearing of an application on the part of the plaintiff that judgment be entered for the plaintiff in this suit against the defendant for Rs. ..... as set out in the plaint herein and for interest and costs.

Dated this ..... day of ..... 19 .

This summons has been issued at
the instance of .....
Advocate for ....."

(Signature of)
Advocate for .....

To
(State names of parties)

N.B. Affidavit of ..... dated the ..... day of ..... 19 will be used in support of the Summons for Judgment.

TOP

Form No. 12

Chamber Summons. (Rule 126)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. OF 19

..... PLAINTIFF.

versus

..... DEFENDANT.

Let all parties concerned attend before the Judge in Chambers on ....., the ..... day of ..... 19 at 11 O'clock in the forenoon on the hearing of an application on the part of the (plaintiff or defendant, as the case may be) for (specify relief claimed).

Dated this ..... day or .....19 .

This Chamber Summons has been issued at the instance of ..... Advocate for .....

(Signature of)

Advocate for .....

To

(State names of parties).

N.B.—Affidavit of ..... dated the ..... day of ..... 19 will be used in support of this Chamber Summons.

TOP

Form No. 13

Notice of Motion (Rule 142)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. OF 19

..... PLAINTIFF.

versus

..... DEFENDANT.

Take notice that this Court will be moved before the Hon'ble Mr. Justice ..... on ..... the ..... day of ..... 19 at 11 O'clock in the forenoon by the abovenamed plaintiff/defendant for an order that (specify relief claimed).

(If leave for a special day and hour has been obtained or if interim relief has been granted, add as follows) :-

And take notice also that leave to give this notice for the day and hour aforesaid has been obtained from the Hon'ble Mr. Justice ..... or that the Hon'ble Mr. Justice ..... has granted the following relief:-

(here state the interim relief granted).

Dated this ..... day of .....19 .

This Notice of Motion has been issued at the instance of ..... Advocate for .....

(Signature of)

Advocate for ....

To

(State names of parties),

N.B.-Affidavit of ..... dated the ..... day of ..... 19 will be used in support of this Notice of Motion.

TOP

Form No. 14

Notice under Order XXX, Rule 5 of the Code of Civil Procedure.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. OF 19

..... PLAINTIFF.

versus

..... DEFENDANT.

To

Take notice that the summons served herewith is served on you as a partner in the defendant firm of ..... or as a person having the control or management of the partnership business of the firm of .....

Dated this ..... day of ..... 19 .

For Prothonotary and Senior Master

Sealer

The ..... day of ..... 19 .

Advocate for .....

N.B.- Where the person served is both a partner and manager, use the following form:—

Take notice that the summons served herewith is served on you as a partner in the defendant firm of ..... and also as a person having the control or management of the partnership business of the firm of .....

TOP

Form No. 15

Notice of Counter claim (Rule 98).

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. _____ OF _____

....…..……...PLAINTIFF

VERSUS

…….DEFENDANT

To,

The withinnamed X.Y.

Take notice that you are required to file an appearance in person or a vakalatnama and your reply to the counter-claim of ……..…within [1][30 days] from the service of this written statement and counter-claim upon you. If you fail to do so, you will be liable to have a decree passed against you on the counter claim.

The…….. day of ……..20

For Prothonotary & Senior Master,

Sealer

The…….. day of _____,20

Advocate for……...

1 . Substituted vide Notification No. G / Amend/610/2022, dated-24-03-2022

TOP

Form No. 16

Notice of payment with denial of liability (Rule 105)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. OF 19

..... PLAINTIFF.

versus

..... DEFENDANT.

To

Take notice that the defendant abovenamed has paid into Court Rs. ..... He says that sum is enough to satisfy the plaintiff's claim herein but denies liability therefor.

The ..... day of ..... 19 .

For Prothonotary and Senior Master.

Sealer

The ..... day of ..... 19 .

Advocate for .....

TOP

Form No. 17

Third Party Notice. Re: Contribution or Indemnity. (Rule 108)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. OF 19

..... PLAINTIFF.

versus

..... DEFENDANT.

To

Mr. X.Y.

Take notice that this suit has been brought by the plaintiff against the defendant-(here state concisely the nature of the plaintiff's claim) as surety for M. N. upon a bond conditioned for payment of ..... and interest to the plaintiff.

The defendant claims to be entitled to contribution from you to the extent of one-half of any sum which the plaintiff may recover against him, on the ground that you are his co-surety under the said bond; or, also surety for the said ..... on respect of the said matter under another bond executed by you in favour of the said plaintiff, dated the ..... day of .....

OR

as acceptor of a bill of exchange for ..... dated the ..... day of ..... drawn by you upon and accepted by the defendant and payable three months after date.

The defendant claims to be indemnified by you against liability under the said bill on the ground that it was accepted for your accommodation

OR

to recover damages for a breach of contract for the sale and delivery to the plaintiff of ..... tons of .....

The defendant claims to be indemnified by you, against liability in respect of the said contract, or any breach thereof on the ground that it was made by him on your behalf and as your agent.

And take notice that, if you wish to dispute the plaintiff's claim in this suit as against the defendant or your liability to the defendant you must enter an appearance in person or a vakalatnama within two weeks from the service of this notice and file within two weeks thereafter an affidavit in reply to the affidavit of the defendant dated ..... in support of the third party notice setting out briefly your case with regard to the third party notice as well as your case, if any, with regard to the plaint.

And whereas the suit will be placed for direction on the board of the Judge in Chambers on the ..... day of ..... 19 .

TOP

You are hereby required to appear before the Judge in Chamber on the said ..... day of ..... 19 at 11 O'clock in the forenoon, either in person or by an Advocate entitled to practice in this Court duly instructed and able to answer all material questions relating to the suit and/or the third party notice, and take notice that on the day aforementioned after hearing parties who appear directions will be given by the Judge as to the date of trial and other matters concerning the suit and the third party notice; And take notice that if you fail to enter an appearance in person or a vakalatnama and to file an affidavit in reply as hereinbefore stated or to appear before the Judge on the day aforementioned, you will be deemed to admit the claim stated in this notice and will be bound by any judgment or decision given in the suit, whether by consent or otherwise in so far as it is relevant to any claim stated in this notice and the Court may pass against you such decree in favour of the defendant as the nature of the case may require.

Dated this ..... day of ..... 19 ,

Prothonotary and Senior Master.

Advocate for the Defendant.

TOP

Form No. 18

Third Party Notice Re Question or Issue. (Rule 108)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. OF 19

..... PLAINTIFF

versus

..... DEFENDANT.

To,

Mr. X.Y.

Take notice that this suit has been brought by the plaintiff against the defendant

(here state concisely the nature of the plaintiff's claim).

The defendant claims that the following question or issue, viz. (here state concisely the question or issue to be determined) should be determined not only as between the plaintiff and the defendant but also as between either or both of them and yourself.

And take notice that if you wish to be heard on the said question or issue or to dispute the defendant's liability to the plaintiff or your liability to the defendant, you must enter an appearance in person or a Vakalatnama within two weeks from the service of this notice, and file within two weeks thereafter an affidavit in reply to the affidavit of the defendant dated ..... in support of the third party notice, setting out briefly your case with regard to the third party notice as well as your case, if any, with regard to the plaint.

And whereas the suit will be placed for directions on the board of the Judge in Chambers on the ..... day of 19

You are hereby required to appear before the Judge in Chambers on the said ..... day of ..... 19 at 11 O'clock in the forenoon either in person or by an Advocate entitled to practice in this Court duly instructed and able to answer all material questions relating to the suit and/or the third party notice; and

Take notice that on the day aforementioned after hearing parties who appear directions will be given by the Judge as to the date of trial and other matters concerning the suit and the third party notice:

And take notice that if you fail to enter an appearance in person or a *vakalatnama* and to file an affidavit in reply as hereinbefore stated or to appear before the Judge on the day aforementioned, you will be bound by any judgment or decision given in the suit, whether by consent or otherwise, in so far as it is relevant to any question or issue stated in this notice and the Court may pass against you such decree as the nature of the case may require.

Dated this ..... day of ..... 19 .

Prothonotary and Senior Master.

Advocate for the Defendant.

TOP

Form No. 19

Confession of defence. (Rule 162)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. OF 19

..... PLAINTIFF

versus

..... DEFENDANT.

The Plaintiff confesses the defence stated in the ..... paragraph of the defendant's written statement (or of the defendants further written statement) filed on the ..... day of ..... 19 .

(Signed)

Plaintiff.

(Signed)

Advocate for the Plaintiff.

Form No. 20

Order for dismissal or withdrawal or suit. (Rule 163)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. OF 19

..... PLAINTIFF.

versus

..... DEFENDANT.

Upon reading the application of ..... dated the ..... day of ..... 19 and the consent signed thereon by ..... and upon the said application being filed this day, it is ordered that this suit be and it is hereby dismissed and it is further ordered that two thirds of the institution allowed to be withdrawn and fee paid on the plaint herein be refunded to the plaintiff and the Prothonotary and Senior Master do issue accordingly a certificate for such refund.

Witness ....., Chief Justice at Bombay, aforesaid, this ..... day of ..... 19 .

By the Court,

Prothonotary and Senior Master.

Sealer

The ..... day of ..... 19.

Order drawn on the application of Advocate for .....

TOP

Form No. 21

Affidavit of documents under Order XI, Rule 13 of the Code of Civil Procedure.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. OF 19

..... PLAINTIFF.

versus

..... DEFENDANT.

I, ... the abovenamed defendant (swear in the name of God or solemnly affirm, as the case may be) and say as follows:-

1. I have in my possession or power the documents relating to the matters in question in this suit which are set forth in the first and second parts of the first schedule hereto.
2. I object to produce the said documents set forth in the second part of the said first schedule hereto.
3. That (here state upon what grounds the objection is made and verify the fact as far as may be).
4. I have had but have not now in my possession or power of the documents relating to the matters in question in this suit which are forth in the second schedule hereto.
5. The last mentioned documents were last in my possession or power on (state when).
6. That (here state what has become of the last mentioned documents and in whose possession they now are).
7. According to the best of my knowledge, information and belief, I have not now and never had in my possession, custody or power or in the possession, custody or power of my Advocate or in the possession, custody or power of any other person or persons on my behalf any deed, account, book of account, voucher, receipt, letter, memorandum, paper or writing or any copy of extract from any such document or any other document whatsoever relating to the matters in question in this suit or any of them or wherein any entry has been made relative to such matters or any of them other than and except the documents set forth in the said first and second schedules hereto.

Sworn

Solemnly affirmed at Bombay

The ..... day of ..... 19 .

Before me

Assistant Master/Associate.

High Court, Bombay.

TOP

Form No. 22

Summons to witness

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. OF 19

..... PLAINTIFF.

versus

..... DEFENDANT.

To

.....

Whereas your attendance is required to give evidence or to produce documents on behalf of the ..... in the above suit, you are hereby required personally to appear before this Court on the ..... day of ..... 19 at 11 'O clock in the forenoon, and thereafter from day to day until the above suit is disposed of or your presence is dispensed with and to bring with you (or to send to this Court) the document hereunder mentioned :-

And this omit not under the penalty of Rupees five hundred and costs.

Witness ..... Esquire, Chief Justice at Bombay aforesaid, this ..... day of ..... 19.

Prothonotary and Senior Master,

Sealer

The ..... day of ..... 19 .

Advocate for .....

Note.—If you are summoned only to produce a document and not to give evidence, you shall be deemed to have complied with the summons if you cause such document to be produced in this Court on the day and hour aforesaid.

TOP

Form No. 23

Originating Summons. (Rule 249)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. OF 19 (o.s.)

..... PLAINTIFF.

versus

..... DEFENDANT.

Upon reading the plaint herein and upon hearing ..... Advocate for the plaintiff, I do order that the defendant abovenamed do attend before the Judge in Chambers on the ..... day of ..... 19. at 11 O'clock in the forenoon on the hearing of an application on the part of the Plaintiff for the determination of the following questions:- (Here set out the questions which the plaintiff desires to have determined).

Witness :..... Chief Justice at Bombay aforesaid, this ..... day of .....19.

Prothonotary and Senior Master.

Sealer

The ..... day of ..... 19.

Advocate for the Plaintiff.

Note-If the defendant does not appear at the time and place abovementioned such order will be made and proceedings taken as the Judge may think just and expedient.

TOP

Form No. 24

Commission under section 76, Order XXVI, Rule 4 of the Code of Civil Procedure (Rule 177)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. OF 19

..... PLAINTIFF.

versus

..... DEFENDANT.

To

District Judge of ....., Greeting:

Know ye that this Court has appointed you Commissioner, with power to appoint any other person you may deem fit in this behalf, to take the examination, cross examination and re-examination (*viva voce* or upon interrogatories) upon oath or solemn affirmation of ..... and such other witness or witness as may be brought for such examination and this is to authorise and empower you, and such other person as you may appoint in this behalf, to require the attendance of such witness or witnesses for the purpose of being examined and to appoint, if necessary, an interpreter to interpret the evidence of such witness or witnesses and this is further to authorise and empower you, and such other person as you may appoint in this behalf, to administer oath or affirmation to such witness or withesses and interpreter according to the form of oath or affirmation hereunder endorsed, which each may choose to take and this is further to direct you, and such other person as you may appoint in this behalf, to appoint, previous to the execution of this Commission, a certain time for executing the same, and to cause notice of such appointment to be duly served upon the said parties or their agents at ..... four days before the execution hereof. And this is further to direct that the parties to the suit do appear, before you or the person appointed by you, in person or by Advocate And this is further to direct that the examination of such witness or witnesses be committed to writing in the English language And this is further to direct that when you or the person appointed by you in this behalf shall have do so taken the examination, you or the said person through you, as the case may be, shall send the evidence and the exhibits together with this commission under a sealed cover to the Prothonotary and Senior Master of the High Court,

Witness ....., Chief Justice at Bombay aforesaid this ..... day of ..... 19 .

Prothonotary and Senior Master

TOP

Sealer

The ..... day of ..... 19.

Advocate for the Plaintiff

Address:

Advocate for the Defendant.

Address:

Oath of Witness

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

Oath of Interpreter

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

TOP

Form No. 25

Order appointing Receiver.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. OF 19

CORAM :

DATE :

..... PLAINTIFF.

versus

..... DEFENDANT

Upon reading the Notice of Motion herein dated the ..... day of ..... 19 and the affidavits mentioned in the List "A" hereto and upon hearing ..... Advocate for the plaintiff in support of the said Notice of Motion and upon the defendant being called and not appearing and upon proof of service of the said Notice of Motion upon the defendant, it is ordered that ..... Court Receiver, be and he is hereby appointed receiver (without security and without remuneration) of the ..... (here insert description of the property of which the Court Receiver is appointed receiver) And it is further ordered that the tenants of the said immovable property do attorn to and pay to the said receiver the rents in arrears (if any) and the growing rents thereof as they become due, and that the said receiver do have power to file suits to recover such rents and suits in ejectment And it is further ordered that the said receiver do leave and pass his accounts before the Commissioner for Taking Accounts, in the manner provided by the rules of this Court.

And it is lastly ordered that the costs of the plaintiff of the said Notice of Motion and of this order be costs in the cause.

Witness ..... Chief Justice at Bombay aforesaid, this ..... day of ..... 19 .

By the Court,

Prothonotary and Senior Master.

Sealer

The ..... day of ..... 19 .

Order drawn on the application of

Advocate for .....

TOP

Form No. 26

Order of Reference to arbitration

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. OF 19

CORAM :

DATE :

..... PLAINTIFF.

versus

..... DEFENDANT.

Upon reading the consent hereunder of the Advocate for the defendant and upon reading the affidavit of ..... dated the ..... day of ..... 19 verifying such consent and upon hearing ..... Advocate for the plaintiff it is by and with such consent ordered that this suit and all matters in dispute between the parties hereto be and they are hereby referred to the final determination of ..... and ..... the arbitrators chosen by and between the said parties and of ..... as umpire and it is further ordered that the said arbitrators do make and sign their award in writing concerning the premises in question and cause it to be filed in the Court together with any depositions and documents which may have been taken and proved before them within ..... months from the date of this order And it is further ordered that in case the said arbitrators disagree about making an award or fail to make and file an award within the said period of ..... months or within such further time as may be allowed by the Court, this suit and all matters in dispute between the parties hereto be referred to the final determination of ..... (umpire) who shall make and sign his award in writing concerning the premises in question and cause it to be filed in the Court together with any depositions and documents which may have been taken and proved before him within ..... months from the date when by virtue of this order the matters aforesaid shall have become subject to his umpirage And it is further ordered by and with such consent as aforesaid that the costs of the suit and of the said reference and award or umpirage shall be in the discretion of the said arbitrators or umpire, as the case may be, who shall direct and award by whom and to whom and in what proportion and manner the same shall be paid And it is further ordered by and with such consent as aforesaid that the witnesses of the parties shall be examined, if the said arbitrators or umpire shall think fit so to direct, upon oath to be sworn or upon solemn affirmation to be made, which the said arbitrators and umpire are authorised to administer And it is further ordered that the parties hereto do produce before and deposit with the said arbitrators or umpire, as the case may be, all books, accounts, papers and writings touching and relating to matters in issue in the suit which are in their possession, power or control as the said arbitrators or umpire shall think fit to order And it is lastly ordered by and with such

TOP

consent as aforesaid that if either of the said parties shall delay or otherwise wilfully neglect to proceed with the said reference, the said arbitrators or umpire shall be at liberty to proceed *ex-parte*.

Witness ..... Chief Justice at Bombay aforesaid this ..... day of ..... 19 .

By the Court,

Prothonotary and Senior Master,

Sealer

The ..... day of ..... 19 .

Advocate for the Plaintiff

We consent :

Advocate for the Defendant.

TOP

Form No. 27

Order of Reference in Administration Suit.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. OF 19

CORAM :

DATE :

..... PLAINTIFF.

versus

..... DEFENDANT.

The plaintiff claims to have the movable and immovable property of ..... deceased duly administered And the suit being this day called on for hearing and final disposal and upon hearing..... advocate for the plaintiff and ..... Advocate for the defendant and upon hearing evidence and perusing exhibits, this Court doth order that the suit be referred to the Commissioner for Taking Accounts to take the following accounts :-

(1) An account of the debts of the said deceased.
(2) An account of the funeral expenses of the said deceased.
(3) (in cases of a will) An account of the legacies bequeathed by the said deceased in his will,
(4) An account of the movable and immovable property of the said deceased.
(5) An account of the costs to be paid out of the property of the said deceased. (or by the ..... as the case may be)

And this Court doth further order that the property of the said deceased be applied in due course of administration And this Court doth further order that the parties to this suit do appear before the said Commissioner and the said Commissioner do report to this Court within six months from the date of the lodging of a certified copy of this order in his office upon the matters hereby referred and for the better taking of such accounts this Court doth further order that the said parties do produce before the said Commissioner all books, papers and documents in their custody, possession or power relating thereto And this Court doth lastly order that any of the said parties shall be at liberty to apply to the Court as there may be occasion.

Witness ....., Chief Justice at Bombay aforesaid this ..... day of ..... 19 .

By the Court,
Prothonotary and Senior Master,

Sealer

The ..... day of ..... 19 .

Order of reference drawn on the application
of .....
Advocate for .....

TOP

Form No. 28

Order of Reference under Order XXVI, Rules 11 and 12 of the Code of Civil Procedure

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. OF 19

CORAM :

DATE :

..... PLAINTIFF.

versus

..... DEFENDANT.

The plaintiff claims to have an account taken of the partnership dealings, etc, between him and the defendant and to have the partnership declared dissolved and wound up and the suit being this day called on for hearing and final disposal and upon hearing ..... Advocate for the plaintiff and ..... Advocate for the defendant and upon hearing evidence and perusing exhibits, this Court doth order that the said partnership do stand dissolved as from the ..... day of ..... 19. And this Court doth further order that notice of such dissolution be advertised by the parties in the Maharashtra Government Gazette and in ..... newspapers And this Court doth further order that notice of the said dissolution be also given by the parties to the Registrar of Firms And This Court doth further order that the suit be referred to the Commissioner for Taking Account to take an account of all dealings and transactions between the plaintiff and the defendant mentioned in the pleadings herein And This Court doth further order that the parties to this suit do appear before the said Commissioner And the Commissioner do ascertain and report to this Court within six months from the date of the lodging of a certified copy of this order in his office what balance, if any, is due by either of them the plaintiff and the defendant to the other of them and for the better taking of such accounts this Court doth further order that the said plaintiff and the defendant do produce before the said Commissioner all books, papers and documents in their custody, possession or power relating thereto And this Court doth reserve the further directions and costs of this suit until the said Commissioner shall have made his report And this Court doth lastly order that any of the said parties shall be at liberty to apply to the Court as there may be occasion.

Witness ..... Chief Justice at Bombay aforesaid, this ..... day of ..... 19 .

By the Court,

Prothonotary and Senior Master.

Sealer

The ..... day of ..... 19 .

Order of reference drawn on the application

of .....

Advocate for .....

TOP

Form No. 29

Decree on Commissioner's Report.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. OF 19

CORAM :

DATE :

..... PLAINTIFF.

versus

..... DEFENDANT.

The plaintiff claims to have an account taken of the partnership dealings etc. between him and the defendant and to have the partnership declared dissolved and wound up;

And whereas by a decretal order of reference herein dated the ..... day of ..... 19 it was *inter alia* ordered that this suit be referred to the Commissioner for Taking Accounts to take accounts therein specified and it was also ordered that the further directions and costs of this suit be reserved until the said Commissioner shall have made his report, and whereas the said Commissioner made and published his report on the ..... day of ..... 19 and the same was filed on the ..... day of ..... 19 and the suit being this day called on for further directions and costs on the said report, And upon hearing ..... Advocate for the plaintiff and upon the defendant being called and not appearing and upon reading the said report of the Commissioner and the certificate of the Prothonotary and Senior Master, dated this ..... day of ..... 19 certifying that no exceptions have been filed to vary or discharge the said report, This Court doth confirm the said report dated the ..... day of ..... 19 and in accordance therewith doth pass judgment for ..... and doth order and decree that ..... Witness ....., Chief Justice at Bombay aforesaid, this ..... day of .....19.

By the Court,

Prothonotary and Senior Master.

Sealer

The ..... day of ..... 19 .

Decree drawn on application of .....

Advocate for .....

TOP

Form No. 30

Application to draw up money decree

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION.

SUIT NO. OF 19

..... PLAINTIFF

versus

..... DEFENDANT

To

The Prothonotary and Senior Master,

High Court, Bombay.

Sir,

Please check the accompanying draft of the decree dated the ..... day of ..... 19 according to the undermentioned particulars and if found correct, have it engrossed :-

		Rs.	P.
1.	Principal awarded		
2.	Interest on Rs. ..... at ..... per cent per annum from the ..... day of ..... 19 to the date of judgement		
3.	Costs		
	Total		

Dated this ..... day of ..... 19 .

Yours faithfully,

Advocate for the Plaintiff.

TOP

Form No. 31

Money decree.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. OF 19

CORAM :

DATE:

..... PLAINTIFF.

versus

..... DEFENDANT.

The Plaintiff claims to recover from the defendant the sum of Rs. ..... (here insert the particulars of claim) and the suit being this day called on for hearing and final disposal, AND UPON HEARING ..... Advocate for the plaintiff AND UPON the defendant being called and not appearing and upon proof of service of the summons upon the defendant and upon hearing evidence and perusing exhibits, this Court doth pass judgment for the plaintiff and doth order and decree that the defendant do pay to the plaintiff the sum of Rs. ..... for principal and the sum of Rs. ..... for interest and the sum of Rs. ..... for the costs of the suit and do pay further simple interest at the rate of ..... per cent per annum upon the amount of the said principal from the date hereof until payment.

Witness ..... Chief Justice at Bombay aforesaid, this ..... day of ..... 19 .

By the Court,

Prothonotary and Senior Master.

Sealer

The ..... day of ..... 19 .

Decree drawn on application of

Advocate for the Plaintiff.

TOP

Form No. 32

Decree under Order XXXVII of the Code of Civil Procedure.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. OF 19

CORAM :

DATE:

..... PLAINTIFF

versus

..... DEFENDANT.

The Plaintiff claims to recover from the defendant the sum of rupees ..... (here insert the particulars of claim) : ..... And this suit being this day called on in Chambers for hearing and final disposal under Order XXXVII of the Code of the Civil Procedure and upon hearing ..... Advocate for the plaintiff and upon proof of service' of the summons upon the defendant on the ..... day of ..... 19 and the said defendant not having obtained leave to defend this suit under rule 3 of Order XXXVII of the aforesaid Code and upon perusing exhibits, this Court doth pass judgment for the plaintiff and doth order and decree that the defendant do pay to the plaintiff the sum of rupees ..... for principal and the sum of rupees ..... for interest and the sum of rupees ..... for costs and do pay further simple interest at the rate of ..... per cent. per annum upon the said principal from the date hereof until payment.

Witness ....., Chief Justice at Bombay aforesaid, this ..... day of ..... 19 .

By the Court,

Prothonotary and Senior Master.

Sealer

The ..... day of ..... 19.

Decree drawn on application of

Advocate for .....

TOP

Form No. 33

Money decree in suit and on Third Party Notice

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. OF 19

CORAM :

DATE:

..... PLAINTIFF

versus

..... DEFENDANT.

The Plaintiff claims to recover from the defendant the sum of Rupees ..... (here insert the particulars of the claim) and this suit and the question of the liability of ..... third party herein, to indemnify the defendant coming up this day for hearing and final disposal and upon hearing ..... Advocate for the plaintiff and ..... Advocate for the defendant and upon the said third party being called and not appearing and upon proof of service of the third party notice upon the said ..... and upon hearing evidence and persuing exhibits, this Court doth pass judgment for the plaintiff and doth order and decree that the defendant do pay to the plaintiff the sum of Rs. ..... for principal and the sum or Rs. .... for interest and Rs. ..... for the costs of the suit and do pay further simple interest at the rate of ..... per cent per annum upon the amount of the said principal from the date here of till payment and with regard to the question of indemnity this Court doth declare that the defendant is entitled to be indemnified by the said third party ..... against all amounts payable by him under this judgment And this Court doth further order that the said third party ..... do pay to the defendant such amounts as may be paid by the defendant to the plaintiff and Rs. ..... for the defendant's cost of the suit and of the third party proceedings herein.

Witness ....., Chief Justice at Bombay aforesaid, this ..... day of 19

By the Court,

Prothonotary and Senior Master.

Sealer

The ..... day of ..... 19.

Decree drawn on the application of

Advocate for .....

TOP

Form No. 34

Preliminary decree on mortgage, Mortgagor in possession.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT No. OF 19

CORAM :

DATE :

..... PLAINTIFF.

versus

..... DEFENDANT.

The Plaintiff claims to recover from the defendant the sum of Rs. ..... (here insert the particulars of claim) under a mortgage, dated the ..... day of ..... 19 and prays that the said mortgage may be enforced by sale of the property described in the Schedule "A" hereto and the suit being this day called on for hearing and final disposal and upon hearing ..... Advocate for the plaintiff and upon the defendant being called and not appearing and upon proof of service of the writ of summons upon him and upon hearing evidence and perusing exhibits, this Court doth pass judgment for the plaintiff and doth declare that there is due and owing to the plaintiff on this day under the said mortgage the sum or Rs. ..... for principal and the sum of Rs. ..... for interest on the said principal and the sum of Rs. ..... for costs, charges and expenses (other than the costs of the suit) properly incurred by the plaintiff in respect of the mortgage security and the sum of Rs. ..... for interest on the said costs, charges and expenses and the sum of Rs. ..... for costs of the suit awarded to the plaintiff, making in all the aggregate sum of Rs. ..... And this Court doth order and decree that the defendant do pay into Court on or before the ..... day of ..... 19 the said sum of Rs. ..... And this Court doth further order that on such payment and on payment thereafter before such date as the Court may fix of such amount as the Court may adjudge due in respect of such subsequent costs of the suit and such subsequent costs, charges and expenses as may be payable under Order 34, Rule 10 of the Code of Civil Procedure together with such subsequent interest as may be payable under Rule 11 of the said Order, the plaintiff do reconvey to the defendant the said mortgaged property or where necessary assign the mortgage debt and transfer the mortgaged property to such third person as the defendant may direct free and clear of and from all incumbrances done by him the said plaintiff or by any person or persons claiming by, from or under him and do deliver all deeds, documents and writings of or relating to the said property in his possession, custody or control to the defendant or to whom he shall appoint And this Court doth lastly order that in default of the defendant paying into Court such

TOP

sums, as aforesaid by the time aforementioned, the plaintiff be entitled to apply for a final decree for sale of the said property.

Witness ..... Chief Justice at Bombay aforesaid, this ..... day of ..... 19 .

By the Court,

Prothonotary and Senior Master.

Sealer

The ..... day of ..... 19 .

Preliminary Decree drawn on the application of Advocate for Plaintiff

Schedule "A"

TOP

Form No. 35

Preliminary decree on mortgage by deposit of title deeds.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. OF 19

CORAM :

DATE :

..... PLAINTIFF.

versus

..... DEFENDANT.

The plaintiff claims to recover from the defendant the sum of Rs. ..... (here insert the particulars of claim) under a mortgage or charge created by a deposit of title-deeds of the property belonging to the defendant and described in the schedule "A" hereto and prays that the said mortgage or charge may be enforced by sale of the said property and the suit being this day called on for hearing and final disposal And upon hearing ..... Advocate for the plaintiff And upon the defendant being called and not appearing And upon proof of service of the writ of summons upon him And upon hearing evidence and perusing exhibits, this Court doth pass judgment for the plaintiff and doth declare that by virtue of the deposit made on the ..... day of .....19 by the defendant with the plaintiff of the title-deeds of the property described in the schedule "A" hereto the plaintiff is entitled to a mortgage or charge on the defendants said property And this Court doth further declare that there is due and owing to the plaintiff on this day on the security of the said mortgage or charge the sum of Rs. ..... for principal and the sum of Rs. ..... for interest on the said principal and the sum of Rs. ..... for costs charges and expenses (other than the costs of the suit) properly incurred by the plaintiff in respect of the mortgage security and the sum of Rs. ..... for interest on the said costs, charges and expenses and the sum of Rs. ..... for costs of the suit awarded to the plaintiff making in at the aggregate sum of Rs. ..... And this Court doth order and decree that the defendant do pay into Court on or before the ..... day of ..... 19 the said sum of Rs. ..... And this Court doth further order that on such payment and on payment thereafter before such date as the Court may fix of such amount as the Court may adjudge due in respect of such subsequent costs of the suit and such subsequent costs charges and expenses as may be payable under Order 34. Rule 10 of the Code of Civil Procedure together with such subsequent interest as may be payable under Rule 11 of the said Order, the Plaintiff do deliver up all deeds, documents and writing of or relating to the said property in his possession, custody or control to the said defendant or to whom he shall appoint free and clear of and from all encumbrances done by him the

TOP

said plaintiff or by any person or persons claiming by, from or under him And this Court doth lastly order that in default of the defendant paying into Court such sums as aforesaid by the time aforementioned the plaintiff be at liberty to apply for a final decree for sale of the said property.

By the Court,

Prothonotary and Senior Master.

Sealer

The ..... day of ..... 19.

Preliminary Decree drawn on the application of Advocate for .....

Schedule "A"

TOP

Form No. 36

Preliminary decree on mortgage, Mortgagee in possession.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. OF 19

CORAM :

DATE:

..... PLAINTIFF

versus

..... DEFENDANT.

The plaintiff claims to recover from the defendant the sum of Rs. ..... (here insert the particulars of claim) under a mortgage dated the ..... day of the ..... 19 and prays that the said mortgage may be enforced by foreclosure (or sale) of the property described in the schedule "A" hereto and the suit being this day called on for hearing and final disposal And upon hearing ..... Advocate for the plaintiff and upon the defendant being called and not appearing And upon proof of service of the writ of summons upon him And upon hearing evidence and perusing exhibits, this Court doth pass judgment for the plaintiff and doth order and decree that the suit be referred to the Commissioner for Taking Accounts to take the following accounts, viz.-

(1) An account of what is due on this date to the plaintiff for principal and interest on the mortgage mentioned in the plaint;

(2) An account of all sums of money properly incurred by the plaintiff upto this date for costs, charges and expenses (other than the costs of the suit) in respect of the mortgage security and interest on such costs, charges and expenses;

(3) An account of the income of the mortgaged property received by the plaintiff upto this date or by any other person by the order or for the use of the plaintiff (or when specially directed, an account of the income of such property which but for the wilful default of the plaintiff might have been so received);

(4) An account of any loss or damage caused to the mortgaged property before this date by any act or omission of the plaintiff which is destructive of or permanently injurious to the property or by his failure to perform any of the duties imposed upon him by any law for the time being in force or by the terms of the mortgage deed And this Court doth further order that any amount received under clause 3 or adjudged due under clause 4 above, together with interest thereon shall first be adjusted against any sums paid by the plaintiff under clause 2 above, together with interest thereon, and

TOP

the balance, if any, shall be added to the mortgage money or as the case may be, be debited in reduction of the amount due to the plaintiff on account of interest on the principal sum adjudged due and thereafter in reduction or discharge of the principal And this Court doth further order that the parties to the suit do appear before the said Commissioner And this Court, doth further order that the said Commissioner do report to this Court upon the matters hereby referred within six months from the date of the lodging of a certified copy of this decree in his office And this Court doth further order that upon the report of the Commissioner being received the said report be confirmed or modified by the Court after considering such objections as the parties to the suit may take And this Court doth further order that upon the amount due to the plaintiff being determined by the Court the defendant do pay into Court within such time as the Court may then direct the amount so determined and the sum of Rs. ..... for the costs of the suit and this Court doth further order that on such payment and on payment thereafter before such date as the Court may fix of such amount as the Court may adjudge due in respect of such subsequent costs of the suit and such subsequent costs, charges and expenses as may be payable under Order 34, Rule 10 of the Code of Civil Procedure together with such subsequent interest as may be payable under Rule 11 of the said order, the plaintiff do reconvey to the defendant the said mortgaged property or where necessary assign the mortgage debt and transfer the mortgaged property to such third person as the defendant may direct free and clear of and from all incumbrances done by him the said plaintiff or by any person or persons claiming by, from or under him and do deliver all deeds, documents and writings of and relating to the said property in his possession, custody or control to the defendant or to whom he shall appoint and do deliver quiet and peaceful possession of the said property to the defendant or to whom he shall appoint and this Court doth lastly order that in default of the defendant paying into Court such sums as aforesaid by the aforementioned, the plaintiff be at liberty to apply for a final decree for sale of the said property (or foreclosure as the case may be).

Witness. ....., Chief Justice at Bombay aforesaid, this ..... day of 19

By the Court,

Prothonotary and Senior Master.

Sealer

The ..... day of ..... 19.

Preliminary Decree drawn on the

application of Advocate for .....

SCHEDULE "A"

TOP

Form No. 37

Final decree in foreclosure suit.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. OF 19

CORAM :

DATE:

..... PLAINTIFF.

versus

..... DEFENDANT.

Upon reading the Notice of Motion herein dated the ..... day of ..... 19 for a final decree for foreclosure and the affidavits mentioned in the list "A" hereto and the preliminary mortgage decree herein dated the ..... day of ..... 19 and the certificate of the Prothonotary and Senior Master dated the ..... of ..... 19 certifying that no money has been paid into Court as directed by the said preliminary mortgage decree and upon hearing ..... Advocate for the plaintiff and upon the defendant being called and not appearing and upon proof of service of the said Notice of Motion upon him this Court doth order and decree that the defendant and all persons claiming through or under him be and they are hereby debarred from all right to redeem the mortgaged property described in the list "B" hereto And this Court doth further order that the defendant do deliver to the plaintiff quiet and peaceful possession of the said mortgaged property and it is further declared that the whole of the liability whatsoever of the defendant upto this day arising from the said mortgage mentioned in the plaint or from this suit be and it is hereby discharged and extinguished.

Witness ....., Chief Justice at Bombay aforesaid, this ..... day of ..... 19 .

By the Court,

Prothonotary and Senior Master.

Sealer

The ..... day of ..... 19 .

Decree drawn on the application

of Advocate for .....

LIST "A"

LIST "B"

TOP

Form No. 38

Final decree in suit for sale.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. OF 19

CORAM :

DATE:

..... PLAINTIFF.

versus

..... DEFENDANT.

Upon reading the Notice of Motion herein dated the ..... day of ..... 19 and the affidavits mentioned in the list "A" hereto and the preliminary mortgage decree herein dated the ..... day of ..... 19 and the certificate of the Prothonotary and Senior Master dated the ..... day of ..... 19 certifying that no money has been paid into Court as directed by the said preliminary decree and upon hearing ..... Advocate for the plaintiff and upon the defendant being called and not appearing And upon proof of service of the Notice of Motion upon him this Court doth order and decree that the mortgaged property described in the list "B" hereto be sold by the Commissioner for Taking Accounts by public auction and this Court doth further order that the plaintiff be at liberty to bid at such sale and that in the event of his becoming the purchaser of the said property he be at liberty to set off the amount of the purchase money against the amount due to him under the aforesaid decree And this Court doth further order that the net proceeds of such sale or so much thereof as may be sufficient be duly applied in payment of the amount payable to the plaintiff under the said preliminary mortgage decree and under any further orders that may have been passed in this suit and in payment of any amount which the Court may have adjudged due to the plaintiff for costs of the suit, including the costs of this Notice of Motion, and such costs, charges and expenses as may be payable under Order 34, Rule 10 of the Code of Civil Procedure, together with such subsequent interest as may be payable under Rule 11 of the said Order and this Court doth further order that the balance. if any, be paid to the defendant or other persons entitled to receive the same And this Court doth further order that in the event of a deficiency the plaintiff be at liberty (where such remedy is open to him under the terms of his mortgage and is not barred by any law for the time being in force) to apply for a personal decree against the defendant for the balance remaining due and this Court doth order that the costs of he said Notice of Motion and of this decree namely Rs. ..... be added to the amount of the mortgage claim And this Court doth lastly order that the parties shall be at liberty to apply to the Court; from time to time as there may be occasion.

Witness ....., Chief Justice at

TOP

Bombay aforesaid this ..... day of ..... 19 .

By the Court,

Prothonotary and Senior Master.

Sealer

The ..... day of ..... 19 .

Decree drawn on the application of

Advocate for .....

LIST 'A'

LIST 'B'

TOP

Form No. 39

Decree of the Appellate Court, dismissing Appeal.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

IN APPEAL FROM ITS ORIGINAL CIVIL JURISDICTION

APPEAL NO. OF 19

SUIT NO. OF 19

CORAM:

DATE:

Appellant

..... Original Plaintiff or Defendant

versus

Respondent

..... Original Defendant or Plaintiff

The appellant appeals against the Decree / Order of the Honourable Mr. Justice ..... dated the ..... day of ..... 19 on the grounds mentioned in the Memorandum of Appeal filed herein And the appeal being this day called on for hearing, And upon hearing ..... Advocate for the appellant and ..... advocate for the respondent And upon reading the memorandum of appeal, the said decree / order dated the ..... day of ..... 19 the notes of evidence taken and the exhibits put in at the hearing of the suit, this Appellate Court doth dismiss the appeal and doth confirm the said decree / order dated the ..... day of ..... 19 and doth order that the appellant do pay to the respondent Rs. ..... for his costs of this appeal.

Witness ....., Chief Justice at Bombay aforesaid, this ..... day of ..... 19 .

By the Court.

Prothonotary and Senior Master.

Sealer

The ..... day of ..... 19 .

Decree drawn on the application of

Advocate for .....

TOP

Form No. 40

Warrant of arrest before Judgment under Order XXXVIII, Rule 1 of the Code of Civil Procedure.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. OF 19

..... PLAINTIFF.

versus

.....DEFENDANT.

To

The Sheriff of Bombay,

Whereas the abovenamed plaintiff claims from the defendant the sum of Rs. ..... as noted in the margin And whereas upon the application of the plaintiff' the Court is satisfied that the defendant has absconded or is about to abscond or has disposed of his property, with intent to obstruct or delay the execution of any decree that may be passed against him and the Court has by an order dated the ..... day of ..... 19 directed the proper warrant to issue:

	Rs.	P.
Amount of claim costs		
Total		

Now this is to command you to arrest the said defendant and bring him forthwith before one of the Judge of this Court in order that he may show cause why he should not give good and sufficient security in the sum noted in the margin for his personal appearance before this Court at any time when called upon while the suit is pending and until satisfaction of any decree that may be passed against him in this suit.

Witness ....., Chief Justice at Bombay aforesaid, the ..... day of ..... 19 .

Prothonotary and Senior Master.

Sealer

This ..... day of ..... 19 .

Advocate for .....

Note.—The officer in attendance to endorse hereon order of discharge or Committal and in the latter case the rate of diet money.

TOP

Form No. 41

Security Bond under Order XXXVIII, Rule 2 of the Code of Civil Procedure.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. OF 19

..... PLAINTIFF.

versus

..... DEFENDANT.

Know all men by these presents that we, ... and ..... are held and firmly bound, jointly and severally, unto ..... Prothonotary and Senior Master of the High Court of Judicature at Bombay, and his successor or successors in office and his or their assigns in the sum of Rupees ..... to be paid to the said ..... Prothonotary and Senior Master and his successor or successors in office and his or their assigns, as the case may be, for which payment to be well and truly made we do bind ourselves and each and every one of us jointly and severally and our respective heirs, executors, administrators firmly by these presents, which are sealed hereunderwith our seals.

Dated this ..... day of ..... 19 .

Whereas the above bounden ..... was on the ..... day of ..... 19 arrested and produced before this Honourable Court under a warrant of arrest issued in the abovementioned suit on the ..... day of ..... 19 . And whereas the said ..... was thereupon ordered to furnish security for his appearance at any time when called upon during the pendency of the said suit and until satisfaction of any decree that may be passed against him in the said suit;

Now the condition of the above obligation is such that if the said ..... shall appear at any time when called upon while the said suit is pending against him and until satisfaction of any decree that may be passed against him in the said suit, then this obligation shall be void and of no effect, but otherwise the same shall remain in full force and effect.

Signed, sealed and delivered by

the abovenamed .....

in the presence of .....

TOP

Form No. 42

Warrant of committal in the case of arrest before judgment.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT No. OF 19

..... PLAINTIFF.

versus

..... DEFENDANT.

To

The Sheriff of Bombay.

Whereas the abovenamed defendant has been arrested before judgment and being brought before the Honourable Mr. Justice ..... has failed to give security for his appearance or to answer the claim against him ;

Now this is to command you to lodge the said ..... in the civil jail to be there detained by the Superintendent of the Civil jail until he is duly discharged according to law or the order of the Court.

The rate of diet money is fixed at Rs. 5 per day.

Witness ....., Chief Justice at Bombay aforesaid, this ..... day of ..... 19 .

Prothonotary and Senior Master.

Sealer

The ..... day of ..... 19.

Advocate for .....

TOP

Form No. 43

Warrant of attachment before judgment under Order XXXVIII, Rule 5 of the Code of Civil Procedure. (Rule 308)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. OF 19

..... PLAINTIFF.

versus

..... DEFENDANT.

To

The Sheriff of Bombay,

Whereas the Court is satisfied that the abovenamed defendant is about to dispose of the property described in the schedule hereto or is about to remove the property described in the schedule hereto from the local limits or jurisdiction of the Court with intent to obstruct or delay the execution of any decree that may be passed against him the Court by an order dated the..... day of ..... 19 has directed the proper warrant to issue .....

Now this is to command you that you do call upon the said defendant on or before the ..... day of ..... 19 either to furnish security in the sum of ..... of produce and place at the disposal of the Court when required the property described in the Schedule hereto or the value of the same, or such portion thereof as may be sufficient to satisfy the decree in this suit, or to appear and show cause why he should not furnish such security; And this is further to command you to attach the said property until the said day or until further orders of the Court; And this is lastly to command you to return this warrant immediately after the execution thereof with an endorsement certifying the date on which and manner in which it has been executed or the reason why it has not been executed.

Witness ....., Chief Justice at Bombay aforesaid, this ..... day of ..... 19 .

Prothonotary and Senior Master

Sealer

The ..... day of ..... 19.

Advocate for .....

SCHEDULE

TOP

Form No. 44

Notice under Order XXI, Rule 2 of the Code of Civil Procedure (Rule 317)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. OF 19

..... PLAINTIFF.

versus

..... DEFENDANT.

To

.....

Whereas the ..... abovenamed has claimed that the sum of Rs. ..... recoverable under the Decree / Order dated the ..... day of ..... 19 has been paid / adjusted and has applied that the Payment / adjustment should be recorded;

Now take notice that you are required under Rule 2 of Order XXI of the Code of Civil Procedure to appear in person or by an Advocate entitled to practise in this Court before the Judge in Chambers on the ..... day of ..... 19 at 11 O'clock in the forenoon to show cause why the payment / adjustment should not be recorded on the said Decree / Order.

Dated this ..... day of ..... 19 .

Prothonotary and Senior Master.

Sealer

The ..... day of ..... 19 .

Advocate for .....

TOP

Form No. 45

Application for execution under Order XXI, Rule 11 (2) of the Code of Civil Procedure. (Rule 313)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT No. OF 19

A	No. of Suit.	
B	Names of parties.	
C	Date of Decree (or Order)	
D	Whether any appeal has been preferred from the decree (or Order)	
E	Payment or adjustment made, if any, subsequent to the decree (or Order).	
F	Previous application, if any, with date and result,	
G	Amount of debt with interest due upon the decree (or Order) or other relief granted thereby, together with particulars of any cross decree.	
H	Amount of costs, if any awarded.	
I	Name of person against whom decree (or Order) is sought to be executed.	
J	Mode in which the assistance of the Court is required.	

.....

(Signature)

I, ..., the abovenamed ..... do declare that what is stated in columns ..... is true to my knowledge, and what is stated in columns ..... is stated on information and belief and I believe the same to be true and that the description of the property in the Schedule hereto and the specification of the judgment-debtor's share or interest therein is true to my own knowledge (or is stated on information and belief, and I believe the same to be true, as the case may be).

Before me,

Solemnly declared at Bombay,

Assistant Master/Associate,
High Court, Bombay,

this ..... day of ..... 19 .

TOP

Form No. 46

Notice under Section 145 of the Code of Civil Procedure (Rule 317).

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. OF 19

..... PLAINTIFF.

versus

..... DEFENDANT.

To

Take notice that you are hereby required under Section 145 of the Code of Civil Procedure to appear in person or by an Advocate entitled to practise in this Court before the Judge in Chambers on the ..... day of ..... 19 at 11 O'clock in the forenoon to show cause why the decree/order passed against..... on the ..... day of ..... 19 in the above suit should not be executed-against you as surety for the said defendant.

Dated this ..... day of .....19 .

Prothonotary and Senior Master.

Sealer

The ..... day of ..... 19 .

Advocate for .....

TOP

Form No. 47

Garnishee Notice (Rule 345)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. OF 19

..... PLAINTIFF.

versus

..... DEFENDANT.

To

The Garnishee

Take notice that you are hereby required on or before ..... day of 19

(i) to pay to the Sheriff of Bombay-

(a) a sum of Rs..... attached in your hands under the warrant of attachment dated ..... day of ..... 19 issued under Order XXI, Rule 46 of the Code of Civil Procedure in execution of the decree/order dated the ..... day of ..... 19 passed in the above suit against-the defendant or so much thereof as may be sufficient to satisfy the decree/order and the costs of execution

(b) the amount payable by you to the defendant abovenamed under the negotiable instrument dated the ..... day of ..... 19 which has been attached under Order XXI, Rule 51 of the Code of Civil Procedure in execution of the decree/order dated the ..... day of ..... 19 passed in the above suit against the defendant or so much thereof as may be sufficient to satisfy the said decree and the costs of execution;

(ii) to deliver to the Sheriff of Bombay-

(a) the movable property in your possession which has been attached under Order XXI, Rule 46 of the Code of Civil Procedure in execution of the decree/order dated the ..... day of ..... 19 passed in the above suit against the defendant or so much thereof as may be sufficient to satisfy the said decree/order and costs of execution:

(b) the movable property in your custody which has been attached under Order XXI, Rule 52 of the Code Civil Procedure in execution of the decree/order dated the ..... day of ..... 19 ... passed in the above suit against the defendant or so much thereof as may be sufficient to satisfy the said decree/ order and the costs of execution;

TOP

OR

to appear before the Judge in Chambers on the ..... day of ..... 19 at 11 a.m. in the forenoon, either in person or by an Advocate entitled to practise in this Court and show cause why you should not be ordered to do so. In default, an order for payment/delivery may be made against you.

Witness ..... Chief Justice at Bombay this ..... day of ..... 19 .

Prothonotary and Senior Master

Sealer

The ..... day of ..... 19.

Advocate for .....

Form No. 48

Notice under Order XXI, Rule 16, of the Code of Civil Procedure. (Rule 317)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. OF 19

..... PLAINTIFF.

versus

..... DEFENDANT.

To

Take notice that you are hereby required under Rule 16 of Order XXI of the Code of Civil Procedure to appear in person or by an Advocate entitled to practise in this Court before the Judge in Chambers on the ..... day of ..... 19 at 11 O'clock in the forenoon to show cause why the decree passed or order made in the above suit on the ..... day of ..... 19 in favour of ..... and by him transferred to ..... should not be executed by the said transferee against you ....., the judgment-debtor.

Dated this ....., day of ..... 19 .

Prothonotary and Senior Master.

Sealer

The ..... day of ..... 19 .

Advocate for .....

TOP

Form No. 49

Notice under Order XXI, Rule 22 of the Code of Civil Procedure (Rules 316 and 317)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. OF 19

..... PLAINTIFF.

versus

..... DEFENDANT.

To

Take notice that you are hereby required under Rule 22 of Order XXI of the Code of Civil Procedure to appear in person or by an Advocate entitled to practise in this Court before the Judge in Chambers on the ..... day of ..... 19 at 11 O'clock in the forenoon to show cause why the decree passed

order

against you on the ..... day of .....19 in the above suit should not be executed against you.

Dated this ..... day of ..... 19 .

Prothonotary and Senior Master.

Sealer

The ..... day of ..... 19 .

Advocate for .....

TOP

Form No. 50

Notice under Order XXI, Rule 34 of the Code of Civil Procedure.

(Rule 317)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. OF 19

..... PLAINTIFF.

versus

..... DEFENDANT.

To

Take notice that you are hereby required under rule 34 of Order XXI of the Code of Civil Procedure to state your objections in writing, if any you have to the accompanying draft conveyance and to file the same in this office on or before the ..... day of ..... 19 and in such event to appear in person or by an Advocate entitled to practise in this Court before the Judge in Chambers on the ..... day of ..... 19 at 11 O'clock in the forenoon to support the same. Dated this ..... day of .....19 .

Prothonotary and Senior Master.

Sealer

The ..... day of ..... 19.

Advocate for .....

TOP

Form No. 51

Notice under Order XXI, Rule 37 of the Code of Civil Procedure (Rule 317)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. OF 19

..... PLAINTIFF.

versus

..... DEFENDANT.

To

Take notice that you are hereby required under Rule 37 of Order XXI of the Code of Civil Procedure to appear in person before the Judge in Chambers on the day of ..... 19 at 11 O'clock in the forenoon to show cause why you should not be committed to jail in execution of the Decree/Order passed against you on the ..... day of .....19 in the above suit.

Dated this ..... day of ..... 19 .

Prothonotary and Senior Master.

Sealer

The ..... day of ..... 19 .

Advocate for .....

TOP

Form No. 52

Warrant of arrest after judgment under Order XXI, Rule 38 of the Code of Civil Procedure (Rule 332)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. OF 19

..... PLAINTIFF.

versus

..... DEFENDANT.

To

The Sheriff of Bombay,

Whereas the plaintiff abovenamed has applied for execution of the decree/ order of this Court, dated the ..... day of ..... 19 by imprisonment of the defendant abovenamed;

	Rs.	P.
Amount of decree / order inclusive of costs. Costs of execution interest at ..... per cent.		
Total		

Now this is to command you to arrest the said defendant if he shall be found in your Bailiwick, and bring him together with this warrant before one of the Judges of this Court with all convenient speed, unless the said defendant is released by you in accordance with the rules of this Court;

And this is further to command you to return this warrant on or before the ..... day of ..... 19 with an endorsement certifying the date on and manner in which it has been executed or why it has not been executed.

Witness ....., Chief Justice at Bombay aforesaid, this ..... day of .....19 .

Prothonotary and Senior Master.

Sealer

The ..... day of 19

Advocate for .....

Note.- The officer in attendance to endorse the order of discharge or committal and in the latter case the rate of diet money.

TOP

Form No. 53

Warrant of committal in execution of decree.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. OF 19

..... PLAINTIFF.

versus

..... DEFENDANT.

To

The Sheriff of Bombay,

Whereas the abovenamed has by an order of this Court dated the ..... day of ....., 19 been ordered to be committed to jail in execution of the decree/order of this Court dated the ..... day of ..... 19 ... ;

	Rs.	P.
Amount of decree order inclusive of costs. Costs of execution interest at ..... per cent.		
Total		

Now this is to command you to lodge the said ..... in the Civil Jail to be there detained by the Superintendent of the Civil Jail until he is duly discharged according to law or the order of the Court.

The diet money is fixed at Rs. 5 per day.

Witness ....., Chief Justice at Bombay aforesaid, this ..... day of .....19 .

Prothonotary and Senior Master.

Sealer

The ..... day of ..... 19 .

Advocate for .....

TOP

Form No. 54

Warrant of attachment of movable property in the possession of the judgment debtor under Order XXI, Rule 43 of the Code of Civil Procedure.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. OF 19

..... PLAINTIFF.

versus

..... DEFENDANT.

To

The Sheriff of Bombay,

Whereas the plaintiff abovenamed has applied for execution of the decree of order this Court dated the ..... day of ..... 19 by attachment of the movable property specified in the schedule hereto and belonging to and in the possession of the defendant abovenamed;

	Rs.	P.
Amount of decree order inclusive of costs. Costs of execution interest at ..... per cent.		
Total		

Now this is to command you to seize forthwith so much of the said property as is not exempted under Section 60 of the Code of Civil Procedure and to safely keep the property so seized in your custody until the further order of this Court or until the attachment is withdrawn by you in accordance with the rules of this Court;

And this is further to command you to return this warrant on or before the ..... day of ..... 19 with an endorsement certifying the date on and the manner in which it has been executed or why it has not been executed.

Witness ..... Chief Justice at Bombay aforesaid, this ..... day of ..... 19 .

Prothonotary and Senior Master.

Sealer

The ..... day of ..... 19 .

Advocate for .....

TOP

Form No. 55

Warrant of attachment of a debt not secured by negotiable instrument under Order XXI, Rule 46 of the Code of Civil Procedure.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. OF 19

..... PLAINTIFF.

versus

..... DEFENDANT.

To

The Sheriff of Bombay,

Whereas the plaintiff abovenamed has applied for execution of the decree/ order of this Court dated the ..... day of ..... 19 by attachment of the debt specified in the schedule hereto and due by ..... to the defendant abovenamed and not secured by negotiable instrument;

	Rs.	P.
Amount of decree / order inclusive of costs. Costs of execution interest at ..... per cent.		
Total		

Now this is to command you to cause to be made known in the manner provided in this behalf by the Code of Civil Procedure that the said defendant be and is hereby prohibited from recovering the said debt or any part thereof and that ..... be and is hereby prohibited from making payment of the same or any part thereof until the further order of this Court or until the attachment is withdrawn by you in accordance with the rules of this Court;

And this is further to command you to return this warrant on or before the ..... day of .....19 with an endorsement certifying the date on and manner in which it has been executed or why it has not been executed.

Witness ....., Chief Justice at Bombay aforesaid, this..... ..... day of ..... 19 .

Prothonotary and Senior Master.

Sealer

The ..... day of ..... 19 .

Advocate for .....

SCHEDULE

TOP

Form No. 56

Warrant of attachment of shares in public companies under Order XXI, Rule 46 of the Code of Civil Procedure.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
SUIT NO. OF 19

..... PLAINTIFF.

versus

..... DEFENDANT.

To

The Sheriff of Bombay

Whereas the plaintiff abovenamed has applied for execution of Decree of this Order Court dated the ..... day of ..... 19 by attachment of the shares specified in the schedule hereto and standing in the name of the defendant abovenamed in the (name of company) :

	Rs.	P.
Amount of decree order inclusive of costs. Costs of execution interest at ..... per cent.		
Total		

Now this is to command you to cause to be made known in the manner provided in this behalf by the Code of Civil Procedure that the said defendant be and is hereby prohibited from transferring the said shares of receiving payment or any dividends thereon and the said Company be and is hereby prohibited from permitting any such transfer or making any such payment until the further order of this Court or until the attachment is withdrawn by you in accordance with the rules of this Court;

And this is further to command you to return this warrant on or before the ..... day of ..... 19 with an endorsement certifying the date on and the manner in which it has been executed or why it has not been executed.

Witness ....., Chief Justice at Bombay aforesaid, this ..... day of ..... 19 .

Prothonotary and Senior Master.

Sealer

The ..... day of ..... 19 .

Advocate for .....

TOP

Form No. 57

Warrant of attachment of movable property in possession of third party under Order XXI, Rule 46 of the Code of Civil Procedure.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
SUIT NO. OF 19
..... PLAINTIFF.
versus
..... DEFENDANT.

To

The Sheriff of Bombay

Whereas the plaintiff abovenamed has applied for execution of Decree / Order dated the ..... day of ..... 19 by attachment of the movable property specified in the schedule hereto and belonging to the defendant abovenamed but in the possession of.....

	Rs.	P.
Amount of decree / order inclusive of costs.		
Costs of execution		
interest at ..... per cent.		
Total		

Now this is to command you to cause to be made known in the manner provided in this behalf by the Code of Civil Procedure that the said defendant be and is hereby prohibited from receiving from the said ..... the said property or any par thereof and that the said ..... be and is hereby prohibited from giving over the said property or any part thereof to the said defendant, until the further order of the Court or until the further order of the Court or until the attachment is withdrawn by you in accordance with the rules of this Court;

And this is further to command you to return this warrant on or before the ..... day of ..... 19 with an endorsement certifying the date on and the manner in which it has been executed or why it has not been executed.

Witness ....., Chief Justice at Bombay aforesaid, this ..... day of ..... 19 .

Prothonotary and Senior Master.

Sealer

The ..... day of 19

Advocate for ..... SCHEDULE

TOP

Form No. 58

Order to attach salary of public Officer, etc. under Order XXI, Rule 48 of the Code of Civil Procedure.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
SUIT NO. OF 19
..... PLAINTIFF.
versus
..... DEFENDANT.

To
.....

	Rs.	P.
Amount of decree order inclusive of costs. Costs of execution interest at ..... per cent.		
Total		

Whereas the defendant abovenamed ..... is a (state post held by the defendant) receiving his salary (or allowances) at your hands; And whereas the plaintiff abovenamed has applied to this Court for attachment of the salary (or allowances) of the said defendant to the extent of ..... due to him under the decree/order of this Court dated the ..... day of 19

You are hereby required to withhold the said sum of Rs. ..... from the salary of the said defendant in monthly installments of ..... and to remit the said sum in monthly installments to the Sheriff of Bombay, until the further order of this Court.

Witness .....Chief Justice at Bombay aforesaid, this ..... day of ..... 19 .

Prothonotary and Senior Master.

Sealer

The ..... day of 19

Advocate for .....

TOP

Form No. 59

Attachment of partnership property under Order XXI, Rule 49 of the Code of Civil Procedure.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. OF 19

..... PLAINTIFF.

versus

..... DEFENDANT.

CORAM :

(in Chambers)

Date :

Upon Reading the Chamber Summons herein dated the ..... day of ..... 19 and the affidavits mentioned in the list "A" hereto And Upon Hearing ..... Advocate for the plaintiff and ..... Advocate for the defendant and ..... Advocate for ....., partners in the firm of ..... it is ordered that the interest of ..... as a partner in the property and profits of the firm of ..... do stand charged with payment to the plaintiff of the amount due under the decree And it is further ordered that ..... be and is hereby appointed receiver of the share of such partner in the profits of the said firm (whether accrued, declared or accruing) and of any other money which may come to him in respect of the said partnership.

(This order may also direct accounts to be taken and inquiries to be made and also order sale of such interest as may seem just and right).

Witness ..... Chief Justice at Bombay aforesaid, this ..... day of 19

By the Court

Prothonotary and Senior Master

Sealer

The ..... day of ..... 19.

Advocate for .....

LIST "A"

TOP

Form No. 60

Warrant of attachment of negotiable instrument under Order XXI, Rule 51 of the Code of Civil Procedure.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. OF 19

..... PLAINTIFF.

versus

..... DEFENDANT.

To

The Sheriff of Bombay,

Whereas the plaintiff abovenamed has applied for execution of the decree/ order of this Court dated the ..... day of ..... 19 by attachment of the property specified in the schedule hereto and belonging to the defendant abovenamed.

	Rs.	P.
Amount of decree / order inclusive of costs. Costs of execution interest at ..... per cent.		
Total		

Now this is to command you to seize forthwith the abovenamed property and to safely keep the property so seized in you custody, until the further order of this Court or until the attachment is withdrawn by you in accordance with rules of this Court;

And this is further to command you to return this warrant on or before the ..... day of .....19 with an endorsement certifying the date on and the manner in which it has been executed or why it has not been executed.

Witness ....., Chief Justice at Bombay aforesaid, this ..... day of 19

Prothonotary and Senior Master.

Sealer

The ..... day of ..... 19 .

Advocate for .....

SCHEDULE

TOP

Form No. 61

Notice under Order XXI, Rule 52 of the Code of Civil Procedure

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. OF 19

..... PLAINTIFF.

versus

..... DEFENDANT.

To

Whereas the plaintiff abovenamed has applied for execution of the decree/ order of this Court, dated the ..... day of ..... 19 by attachment under Rule 52 of Order XXI of the Code of Civil Procedure of the money or property specified in the schedule hereto and belonging to the defendant abovenamed, but in your hands;

Now take notice that under Rule 52 of Order XXI of the said Code you are requested to hold the said moneys or property until the further order of this court.

Witness ....., Chief Justice at Bombay aforesaid, this ..... day of ..... 19 .

Prothonotary and Senior Master.

Sealer

The ..... day of ..... 19 .

Advocate for .....

SCHEDULE

TOP

Form No. 62

Notice under Order XXI, Rule 53(1)(a) and (6) of the Code of Civil Procedure.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. OF 19

..... PLAINTIFF.

versus

.....DEFENDANT.

To,

(Name of judgment - debtor bound by the decree to be attached).

Whereas the plaintiff abovenamed has applied for execution of the decree (order) dated the ..... day of ..... 19 obtained by him against the defendant abovenamed by attachment of the decree for money passed by this Court in Suit No. ..... of 19.... wherein the defendant abovenamed is the plaintiff and you are the defendant;

Now take notice that the said decree for money is Suit No. ..... of 19 has been attached by order of this Court under Order XXI, Rule 53(1)(a) of the Code of Civil Procedure and you are hereby directed to pay to the Sheriff of Bombay the sum of Rs. ..... in order that the same may be applied in satisfaction of the decree in this suit for that amount including costs of execution.

Dated this ..... day of ....., 19 .

Prothonotary and Senior Master.

Sealer

The ..... day of ..... 19 .

Advocate for .....

TOP

Form No. 63

Notice under Order XXI, Rule 53(1)(b) of the Code of Civil Procedure.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. OF 19

..... PLAINTIFF.

versus

..... DEFENDANT.

To

The Judge,

..... Court,

Whereas, the plaintiff abovenamed has applied for execution of the decree dated the ..... day of ..... 19 obtained by him against the defendant abovenamed by attachment of the decree for money passed by your Court in Suit No. ..... of 19.... in favour of the abovenamed ..... and wherein the said ..... is the plaintiff, and ..... is the defendant;

Now take notice that you are requested to stay the execution of the said decree of your Court until you receive intimation from this Court that this notice is cancelled or until the holder of the decree of this Court applies to your Court to execute the decree of your Court.

Dated this ..... day of ..... 19 .

Prothonotary and Senior Master.

Sealer

The ..... day of ..... 19.

Advocate for .....

TOP

Form No. 64

Notice under Order XXI, Rule 53(4) of the Code of Civil Procedure.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. OF 19

..... PLAINTIFF.

versus

..... DEFENDANT.

To

(Name of the holder of the decree sought to be attached).

Whereas, the (plaintiff) abovenamed has applied for execution of the decree dated the ..... day of ..... 19 obtained by him against you in the above suit by attachment of the decree dated the ..... day of ..... 19 passed in your favour in Suit No. ..... of ..... 19 in the Court of .....

Now take notice that under Order XXI, Rule 53(4) of the Code of Civil Procedure you are prohibited from transferring or charging the said decree in any way until the further order of this Court.

Dated this ..... day of ..... 19 .

Prothonotary and Senior Master.

Sealer

The ..... day of ..... 19 .

Advocate for .....

TOP

Form No. 65

Warrant of attachment of immovable property under Order XXI, Rule 54 of the Code of Civil Procedure.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. OF 19

..... PLAINTIFF.

versus

..... DEFENDANT.

To

The Sheriff of Bombay,

Whereas the plaintiff abovenamed has applied for execution of the decree/ order of this Court, dated the ..... day of ..... 19 by attachment of the immovable property specified in the schedule hereto and belonging to the defendant abovenamed;

	Rs.	P.
Amount of decree / order inclusive of costs.		
Costs of execution		
interest at ..... per cent.		
Total		

Now this is to command you to cause to be made known and proclaimed in the manner provided in this behalf by the Code of Civil Procedure that the said defendant is hereby prohibited from transferring or charging the said property by sale, gift or otherwise and that all persons are hereby prohibited from receiving the same from the said defendant by purchase, gift or otherwise, until the further order of this Court or until the attachment is withdrawn by you in accordance with the rules of this Court;

And this is further to command you to return this warrant on or before the ..... day of ..... 19 , with an endorsement certifying the date on and the manner in which it has been executed or the reason why it has not been executed.

Witness ....., Chief Justice at Bombay aforesaid, this ..... day of ..... 19 .

Prothonotary and Senior Master.

Sealer

The ..... day of ..... 19 .

Advocate for .....

SCHEDULE

TOP

Form No. 66

Warrant for sale of movable property under Order XXI, Rule 64 of the Code of Civil Procedure.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. OF 19

..... PLAINTIFF.

versus

..... DEFENDANT.

To

The Sheriff of Bombay,

	Rs.	P.
Amount of decree/order inclusive of costs.		
Costs of previous execution		
Costs of this warrant		
interest at ..... per cent.		
Total		

Whereas by a decree passed in the above suit on the ..... day of ..... 19 , it was ordered that ..... And whereas by a warrant of attachment of movable property, dated the ..... day of ..... 19 , the following movable property was attached, namely, .. . in execution of the said decree;

Now this is hereby to command you that you do on a day and at a place to be appointed by you for that purpose and of which you shall cause proclamation to be made in due form of law sell by public auction the movable property aforesaid or so much of it as shall be necessary to satisfy the said decree;

And this is further to command you that you do retain the moneys to be realised by such sale until the further order of this Court;

And this is lastly to command you to return this warrant on or before the ..... day of ..... 19 with an endorsement certifying the date on and the manner in which it has been executed or the reason why it has not been executed.

Witness ....., Chief Justice at Bombay aforesaid, this ..... day of .....19 .

Prothonotary and Senior Master.

Sealer

The ..... day of ..... 19 .

Advocate for .....

TOP

Form No. 67

Warrant for sale of immovable property under Order XXI, Rule 64 of the Code of Civil Procedure.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT No. OF 19

..... PLAINTIFF.

versus

..... DEFENDANT.

To

The Sheriff of Bombay,

Whereas by a decree passed in the above suit on the ..... day of, ... 19 it was ordered that ..... And whereas by a warrant of attachment of immovable property dated the ..... day of .... 19 the following lands and premises were attached, namely, ... in execution of the said decree;

	Rs.	P.
Amount of decree/order inclusive of costs.		
Costs of previous execution		
Costs of this warrant		
interest at ..... per cent.		
Total		

Now this is hereby to command you that you do, on a day and at a place to be appointed by you for that purpose and of which you shall cause proclamation to be made in due form of law, sell by public auction all the right, title and interest of the ..... in the lands and premises aforesaid or so much thereof as shall be necessary to satisfy the said decree; And this is further to command you that you do retain the moneys to be realised by such sale until the further order of this Court;

And this is lastly to command you to return this warrant on or before the ..... day of ....., 19 with an endorsement certifying the date on and the manner in which it has been executed or the reason why it has not been executed.

Witness ....., Chief Justice at Bombay aforesaid, this ..... day of ..... 19 .

Prothonotary and Senior Master.

Sealer

The ..... day of ..... 19 .

Advocate for .....

TOP

Form No. 68

Conditions of sale of immovable property. (Rule 521)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. . OF 19

..... PLAINTIFF.

versus

..... DEFENDANT.

Conditions of sale of the property described in the notification of sale, in Suit No. ..... of 19 .

1. The property shall be put up for sale at a sum to be fixed by the Commissioner at the time of sale, the highest bidder shall be the purchaser and if any dispute arises as to the last or highest bid, the same shall be put up again at the last undisputed bid and re-sold.
2. No person shall at any bidding offer a less sum than what shall be fixed by the Commissioner or retract a bid.
3. The sale is subject to a reserved bid which has been fixed by the Commissioner.
4. The purchaser shall at the time of sale subscribe his name and address in the bidding paper and all written notices and communications and summonses shall be deemed duly delivered to and served upon the purchaser by being left for him at such address, unless or until he is represented by an Advocate entitled under the rules to act in the suit or matter.
5. Subject to the provisions of clause 6, the purchaser shall at the time of sale pay a deposit of twenty-five per cent on the amount of his purchase money to the Commissioner; otherwise the property shall forthwith be re-sold. Any deficiency of price which may arise on a re-sale by reason of the purchaser's default and all costs and expenses occasioned by such re-sale shall be recoverable from the defaulting purchaser under an order to be obtained from the Judge in Chambers. The Judge may direct the defaulting purchaser to pay interest at such rate from the date of default and on such amount as to the Judge may seem just.
6. Where a mortgagee of the property which is being sold has obtained leave to bid and to set-off his claim against the purchase money and is declared the purchaser the provisions contained in Rule 547 of the Rules of the High Court, Original Side, with regard to a mortgagee purchaser shall apply.
7. The party having the carriage of proceedings shall within ..... days after the sale deliver to the purchaser or his Advocate on record, if required by him, an abstract of the title to the property purchased by him, subject to the stipulations contained in these conditions; and the purchaser shall, within ..... days after the actual delivery of the abstract, deliver at the office of the Advocate on record for the

TOP

party having the carriage of proceedings a statement in writing of his objections and requisitions (if any) to or on the title as deduced by such abstract and upon the expiration of such last mentioned time (and in this respect time is to be deemed of the essence of the contract), the title shall be considered as approved of, and accepted by the purchaser, subject only to such objections and requisitions, if any.

8. Subject to the provisions of clause 9, the purchaser shall pay to the Commissioner the balance of the purchase money together with the amount of stamp-duty payable on the conveyance to be executed or on the sale certificate to be issued, within 30 days from the date of the sale or within such further time as may be allowed by the Judge in Chambers and if the said amounts be not so paid, the deposit may if the Judge think fits, after defraying the expenses of the sale, be forfeited to the Government and the property shall be re-sold and the defaulting purchaser shall forfeit all claim to the property or to any part of the sum for which it may subsequently be sold. Any deficiency of price which may arise on a re-sale by reason of the purchaser's default and all costs and expenses occasioned by such re-sale shall be recoverable from the defaulting purchaser under an order to be obtained from the Judge in Chambers. The Judge may direct the defaulting purchaser to pay interest at such rate from the date of default and on such amount as to the Judge may seem just.

9. Where a mortgagee of the property which is being sold has obtained leave to bid and to set-off his claim against the purchase money and is declared the purchaser, the provisions contained in Rule 547 of the Rules of the High Court, Original Side, with regard to a mortgagee purchaser shall apply.

10. Upon payment of the purchase money and the amount of stamp duty in the manner aforesaid and on confirmation of the sale by the Court, the purchaser shall be entitled to possession of such parts of the property as are in the occupancy of the mortgagor or the mortgagee and to the rents and profits of such parts as are let as from the day of such payment and shall be entitled to a proper conveyance, wherein all proper parties shall join as the Commissioner shall direct. Such conveyance shall be prepared by and at the expense of the purchaser, such expense to include the stamp duty, registration fee and the costs of perusing and approving the draft conveyance on behalf of the vendors and all correspondence in reference thereto, and the conveyance shall be tendered and left by the purchaser at the office of the Advocate for the party having the carriage of the proceedings for execution by the proper parties. In case of difference, the draft conveyance shall forthwith be lodged by the purchaser in the office of the Commissioner.

11. In the event of the conveyance to the purchaser not being executed within thirty days from the date of the confirmation of the sale, it shall not be lawful for the purchaser at the expiration of such thirty days to object, on the ground of his not having receive his conveyance or otherwise, to such distribution or payment of the purchase money as the Court or the said Commissioner may direct, but the

TOP

purchase without any written acknowledgment or consent shall be taken to have consented to such distribution or payment.

12. The purchaser shall not be liable to pay the outgoings previous to the day of payment of the purchase money, and the rents and outgoings shall be apportioned, if necessary. The purchaser shall at his own expense take such steps as may be necessary for the purpose of obtaining possession.

13. The production and inspection of all deeds, evidence and muniments of title which are not in possession or power of the party having the conduct of the proceedings and the procuring and making of all certified, attested or other copies or extracts of or from any registers, deeds, wills or other documents, and of all declarations or other evidences as to identity, whether required for the verification of the abstract or for any other purpose shall be at the expense of the purchaser requiring the same.

14. If any error or mis-statement shall appear to have been made in the particulars or description of the property, such error or mis-statement (if capable of compensation) shall not annul the sale nor entitle the purchaser to be discharged from his purchase, but a compensation shall be made to or by the purchaser as the case may be and the amount of such compensation shall be settled by the Commissioner.

(Add to these such special conditions as may be necessary)

Dated this ..... day of ..... 19 .

Commissioner.

TOP

Form No. 69

Conditions of sale of movable property other than negotiable securities, etc. (Rule 521)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
SUIT NO. OF 19
..... PLAINTIFF.
versus
..... DEFENDANT.

Conditions of sale of movable property other than negotiable securities, or shares in any Banking or other Public Company or Corporation.

Conditions of sale of the property described in the notification of sale in Suit No. ..... of 19

1. No person shall at any bidding offer a less sum than what shall be fixed by the Commissioner or retract a bit.
2. The highest bidder shall be the purchaser provided the Commissioner shall consider that a sufficient bid has been offered and if any dispute arises as to the last or highest bid, the property shall be put up again at the last undisputed bid and re-sold.
3. Subject to the provisions of clause 4, the purchaser shall at the time of the sale pay to the Commissioner the full amount of the purchase money, otherwise the property shall forthwith be re-sold. Any deficiency of price which may arise on a re-sale by reason of the purchaser's default and all costs and expenses occasioned by such re-sale shall be recoverable from the defaulting purchaser under an order to be obtained from the Judge in Chambers. The Judge may direct the defaulting purchaser to pay interest at such rate from the date of default and on such amount as to the Judge may seem just.
4. Where a mortgagee of the property which is being sold has obtained leave to bid and to set-off his claim against the purchase money and is declared the purchaser, the provisions contained in Rule 546 of the Rules of the High Court, Original Side, with regard to a mortgagee purchaser shall apply.
5. Upon payment of the purchase money, the purchaser shall at his own expense take such steps as may be necessary for the purpose of obtaining delivery of the property.
6. The Commissioner shall, as soon as possible after the sale, proceed to certify the result. Such certificate shall be filed by and at the expense of the party having the conduct of the proceedings.

(Add to these such special conditions as may be necessary.)

Dated this ..... day of ..... 19 .

Commissioner.

TOP

Form No. 70

Bidding paper. (Rule 540)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. OF 19

..... PLAINTIFF.

versus

..... DEFENDANT.

I, ..., whose signature is hereunder subscribed, bid the amount hereunder mentioned in column two at the sale held in the above suit on the ..... day of ..... 19 .... of the property hereunder mentioned in column I and was declared the purchaser of the said property, subject to the conditions of sale which were read out at the said sale.

Short particulars of the property lot	Amount of highest bid	Amount of deposit or received	Amount remaining due	Full name of the purchaser	Address and occupa-tion of the purchaser

Before me,

Commissioner, High Court

Signature of the purchaser.

TOP

Form No. 71

Certificate showing persons who have applied for execution of money decree. (Rule 337)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. OF 19

..... PLAINTIFF.

versus

..... DEFENDANT.

and

..... JUDGMENT-DEBTOR.

I hereby certify at the request of ..... Advocate for ..... that the persons mentioned in the schedule hereto annexed have within twelve months prior to the ..... day of ..... 19 (being the date of the realisation of the assets mentioned in the Sheriff's certificate dated the ..... day of ..... 19) applied to this Court for execution of decree for money against the abovenamed judgment-debtor or have been declared entitled to share in such assets, and that the amounts set opposite their respective names appear to be payable under such decree.

Dated this ..... day of ..... 19 .

Prothonotary and Senior Master.

Sealer

The ..... day of ..... 19 .

Advocate for .....

SCHEDULE

TOP

Form No. 72

Notice to judgment-creditor. (Rule 317)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
SUIT NO. OF 19

..... PLAINTIFF.

versus

..... DEFENDANT.

and

..... JUDGMENT-DEBTOR.

To

Whereas the Sheriff of Bombay has on the ..... day of ..... 19 realised assets to the amount of Rs. ..... in execution of the decree dated the ..... day of ..... 19 is Suit No. ..... 19 against the abovenamed .....

Notice is hereby given to all persons who claim to be entitled to share in such assets under section 73 of the Code of Civil Procedure that they attend either in person or by their Advocate entitled to practise in this Court before the Judge in Chambers on the ..... day of ... .19.... at 11 O'clock in the forenoon in support of their claims, otherwise an order for the distribution of such assets will be made in their absence.

Dated this ..... day of ..... 19 .

Prothonotary and Senior Master.

Sealer

The ..... day of ..... 19 .

Advocate for .....

TOP

Form No. 73

Order for payment by Sheriff. (Rule 342)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. OF 19

..... PLAINTIFF.

versus

..... DEFENDANT.

	Rs.	P.
Amount of decree / order inclusive of costs.		
Costs of previous execution		
Costs of this Order		
interest at ..... per cent.		
Total		

Upon Reading the certificate of the Prothonotary and Senior Master dated the ..... day of ..... 19 hereto annexed and marked "A", it is ordered that the Sheriff of Bombay do pay to the Plaintiff the moneys mentioned in his certificate ..... dated the ..... day of ..... 19 or so much thereof as may be sufficient to satisfy the decree and Rs. ..... for costs of this order after deducting thereout his poundage and other incidental charges unless the said moneys are otherwise attached in his hands.

Dated this ..... day of ..... 19 .

Prothonotary and Senior Master.

Sealer

The ..... day of ..... 19 .

Advocate for .....

TOP

Form No. 74

Warrant of Possession under Order XXI, Rules 35 and 36 of the Code of Civil Procedure.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. OF 19

..... PLAINTIFF.

versus

..... DEFENDANT.

To

The Sheriff of Bombay.

Whereas by a decree of this Court passed in the above suit on the ..... day of ..... 19 , it was ordered that

This is therefore to command you to deliver upto the said plaintiff possession of so much of the said property as is now in the occupancy of the defendant or other person bound by the decree and if need be to remove the said defendant or such other person if he refuses to vacate the same and as to so much thereof as may be in the occupancy of a tenant or other person entitled to occupy the same and not bound by the decree to relinquish such occupancy, to make delivery thereof by serving a notice in writing, containing the substance of the said decree, on each occupant, but if the occupant cannot be found then by affixing a copy of this warrant in some conspicuous place of the said property, and proclaiming to the occupant by beat of drum or in such other mode as is customary, at some convenient place the substance of the decree in regard to the said property;

And this is further to command you to attach and sell so much of the movable property of the said defendant as may be necessary for realising the costs of execution of this warrant as noted in the margin hereof and the costs of such attachment and sale, if any, and to pay the sum so realised to the judgment-creditor or to his Advocate on record; And this is lastly to command you that you return this warrant on or before the ..... day of ..... 19 with an endorsement certifying the date on and the manner in which it has been executed or the reason why it has not been executed.

Witness ....., Chief Justice at Bombay aforesaid, this ..... day of ..... 19 .

Prothonotary and Senior Master.

Sealer

The ..... day of ..... 19 .

Advocate for .....

TOP

Form No. 75

Warrant of possession under Order XXI Rules 95 and 96 of the Code of Civil Procedure.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. OF 19 .

..... PLAINTIFF.

versus

..... DEFENDANT.

To

The Sheriff of Bombay.

Whereas under an order of sale made in the above suit on the ..... day of ..... 19 , the property in the schedule hereto annexed was sold by .... and a certificate in respect thereof has been granted under Order 21, Rule 94 of the Code of Civil Procedure to ..... the purchaser thereof; and whereas lot No. ..... is in the occupancy of (the judgment-debtor or some person on his behalf or of some person claiming under a title created by the said judgment-debtor subsequently to the attachment of such property, as the case may be); and whereas lot No. ..... is in the occupancy of ....., who is entitled to occupy the same;

This is therefore to command you to put the said purchaser or any person he may appoint in possession of so much of the said property as is in the possession of the said judgment-debtor (or etc.) and if need be to remove any person who may refuse to vacate the same, and of so much of the said property as is in the occupancy of any person entitled to occupy the same, by affixing a copy of the said certificate of sale in some conspicuous place on the property and proclaiming to the said occupant, by beat of drum or in such other mode as may be customary, at some convenient place near the said property, that the interest of the said judgment-debtor has been transferred to the said purchase And this is lastly to command you that you return this warrant on or before ..... day of .....19 , with an endorsement certifying the date on and the manner in which it has been executed or the reason why it has not been executed.

Witness ....., Chief Justice at Bombay aforesaid, this ..... day of ..... 19 .

Prothonotary and Senior Master.

Sealer

The ..... day of ..... 19 .

Advocate for .....

SCHEDULE

TOP

Form No. 76

Commissioner's summons to judgment debtor for settling proclamation of sale. (Rule 579)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. OF 19

..... PLAINTIFF.

versus

..... DEFENDANT.

To

The

Whereas in pursuance of a warrant of sale, dated the ..... day of .....19 , the Sheriff has been directed to sell the following property at the instance of .....

(Description of property)

You are hereby required under the provisions of Rule 66 of Order XXI of the Code of Civil Procedure to attend at my office upon the ..... day of ..... 19 , at ..... O'clock in the ..... noon and to bring with you and produce at the time and place aforesaid all title-deeds and documents in your possession or power relating to the said property.

Dated this ..... day of ..... 19 ,

Commissioner.

TOP

Form No. 77

Notice to persons having claims on attached property. (Rule 581)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. OF 19

..... PLAINTIFF.

versus

..... DEFENDANT.

Whereas in pursuance of a warrant of sale, dated the ..... day of ..... 19 , the Sheriff has been directed to sell the following property, at the instance of .....

(Description of property)

Notice is hereby given to all persons having any right or interest in or any charge or claim on the abovenamed property (other than claims involving an objection to the attachment or seeking the removal of the same), that they should on or before the ..... day of ..... 19 , lodge in my office a statement verified by oath or solemn affirmation of such right, interest, charge or claim.

Dated this ..... day of ..... 19 .

Commissioner.

TOP

Form No. 78

Sheriff's proclamation of sale. (Rule 585)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. OF 19

..... PLAINTIFF.

versus

..... DEFENDANT.

Whereas by a decree made in the above suit it was ordered that ..... And whereas by a warrant of sale dated the ..... day of ..... 19 , the Sheriff of Bombay was directed to sell the right, title and interest of the judgment-debtor in the following lands and premises namely:-

(Description of the property)

(Include the revenue assessment if the property to be sold is an interest is an estate or a part of an estate paying revenue to Government).

Now it is hereby proclaimed and notified that on the ..... day of ..... 19 , at ..... O'clock in the ..... noon, the Sheriff of Bombay will under and by virtue of the said warrant of sale put up for sale, by public auction (on the premises or at .....) to the highest bidder and without reserve the right, title and interest of the said ..... in the said lands and premises or in so much thereof as may be necessary for the satisfaction of the said decree, costs of execution and the Sheriff's poundage, provided that it shall be in the discretion of the Sheriff to decline acceptance of the highest bid when the price offered appears so clearly inadequate as to make it advisable to decline acceptance.

The following is a list of the rights, interests, charge and claims to which the said lands and premises are supposed to be liable.

(List of claims)

Intimation is given that the Court does not warrant the correctness of the above description of the premises nor the title of the said ..... to the same or any interest therein.

Should the said ..... have no saleable interest whatever in any lot to be sold in accordance with this proclamation any sum paid by the purchaser by way of full or part payment for the same will be repayable to the purchaser.

The abovementioned ..... execution creditor has (or has not, as the case may be) permission to bid at the sale.

The person declared to be the purchaser shall pay immediately after such, declaration a deposit of twenty five per cent on the amount of the purchase money to the Sheriff and in default of such deposit, the property shall forthwith be put up

TOP

again for sale. The balance of the purchase-money together with the amount of stamp-duty payable on the sale certificate to be issued by the Court shall be paid by the purchaser to the Sheriff on or before the thirtieth day after the sale. In default of payment of the balance of the purchase-money and the amount of stamp-duty within such period, the deposit may, if the Court thinks fit, after defraying the expenses of the sale, be forfeited to Government and the property shall be resold and the defaulting purchaser shall forfeit all claim to the property or to any part of the sum for which it may subsequently be sold. The sale will not become absolute until confirmed by the Court.

For further information and conditions of sale application should be made to the office of the Sheriff.

Dated this ..... day of ..... 19 .

Sheriff

TOP

Form No. 79

Instruction to guardians. (Rule 357)

INSTRUCTION FOR THE GUIDANCE OF GUARDIANS AND MANAGERS OF MINORS AND PERSONS OF UNSOUND MIND

Your attention is particularly invited to the following:-

1. You are in a fiduciary relation to the minor/lunatic and shall not make any profit for yourself out of your office, except such remuneration, if any, as the Court awards, or the will or other instrument appointing you allows.
2. You shall deal with the property of the minor/lunatic as carefully as a man or ordinary prudence would deal with it if it were his own. If you fail to do so, vou are liable to make good the loss caused to the minor/lunatic.
3. Without the previous permission of this Court you shall not mortgage, charge, sell, exchange, or give away any of the property of the minor/lunatic nor shall you lease any part of it for a term exceeding five years or for any term extending more than one year beyond the date on which the minor will complete the age of 21 years.
4. For the maintenance, education and advancement of the minor/lunatic, and of such persons as are dependent on him, and for the celebration of ceremonies to which the minor/lunatic or any of those persons may be a party, you may apply such portion of the income of the property of the minor/lunatic as the Court from time to time directs, and, if the Court so directs, the whole or any part of that property.
5. You shall submit an inventory of all the minor's/lunatic's property and debts within six months from the date of the order of appointment.
6. You shall file accounts in the office of the Commissioner of this Honourable Court for Taking Accounts within three months from the expiry of a year from the date of your appointment and thereafter within three months from the expiry of each subsequent year.
7 You shall get your accounts passed by the Commissioner of this Honourable Court for Taking Accounts.
8. Your powers as a guardian or manager cease when the minor completes his 21st year or when the lunatic is declared by the Court to be sane.
9. If you desire to resign your office before the minor attains majority or before the lunatic is declared by the Court to be sane you must apply to the Court to be discharged.
10. Until you are discharged by the Court your responsibilities continue.
11. You are bound by the provisions of the Guardians and Wards Act (VIII of 1890). or of the Indian Lunacy Act (IV of 1912), and by the rules made thereunder, as the case may be, and by such orders as the Court may make from time to time.
12. You may at any time apply to the Court for directions.

TOP

13. If you are a guardian of the person, (a) you shall not remove the minor/lunatic from the Courts jurisdiction without its permission; (b) you are charged with the custody of the minor/lunatic and must look to his maintenance, health and education.

14. You shall not make any arrangement for the betrothal or marriage, of the minor/ lunatic without the express sanction of the Court.

15. You shall not incur any expenditure for the betrothal or marriage of the minor/ lunatic without the express sanction of the Court.

16. You should note that the Court can by order restrict your powers of management regarding the minor/lunatic's property.

17. In the absence of any special direction of the Court, it is incumbent on you-

    (1) To invest the funds of the minor/lunatic in promissory notes, debentures stock or other securities of the Union of India or of the State of Maharashtra;

    (2) Not to borrow without the sanction of the Court;

    (3) Not to sell the ornaments and other valuables of the minor/lunatic without the Court's permission;

    (4) To obtain the Courts permission for improvements and for repairs, other than ordinary to any property of the minor/lunatic in your charge;

18. You shall in the event of the death of any of your sureties immediately inform the Court of the fact and shall furnish another surety within one month of the death or such further time as the Court may grant.

TOP

Form No. 80

Bond by Guardian. (Rule 363)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
SUIT NO. OF 19

In the matter of ....., a minor/lunatic.
..... PETITIONER.

Known all men by these presents that we, ... and ..... are held and firmly bound jointly and severally to .....

Prothonotary and Senior Master of the High Court of Judicature at Bombay, and his successor or successors in Office and his or their assigns in the sum of Rs..... to be paid to the said ..... Prothonotary and Senior Master, and his successor or successors in office and his or their assigns, as the case may be, for which payment to be well and truly made we bind ourselves and each and every one of us jointly and severally our respective heirs, executors and administrators firmly by these presents, which are sealed hereunder with our seals.

Dated this ..... day of ..... 19 .

Whereas by an order, dated the ..... day of ..... 19 and made in the matter of the Guardian and Wards Act, 1890, the Indian Lunacy Act, 1912, and in the matter of ..... it was ordered among other things ..... (here set out so much of the order as relates to the appointment of the guardian and the giving of the bond) and whereas the said Prothonotary and Senior Master has approved if without sureties the portion within brackets to be omitted. (of the above bounden ..... as sureties for ..... the said .....) and has also approved of the above written bond with the under-written condition as a proper security to be entered into by the said ..... pursuant to the said order : NOW THE CONDITION of the above bond is such that if the said ..... as such guardian as aforesaid shall duly account for what he may receive in respect of the property of the said minor/lunatic and shall well and truly leave and pass his accounts before the Commissioner for Taking Accounts of this Hon'ble Court in accordance with the rules and regulations of this Hon'ble Court and shall discharge his duty as such guardian as aforesaid in all things according to the terms and conditions, true intent and meaning of the said Order, then the above written bond shall be void and of no effect, but otherwise the same shall remain in full force and effect.

TOP

Form No. 81

Receiver's Account (Rule 595)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
SUIT NO. OF 19

..... PLAINTIFF.

versus

..... DEFENDANT.

The account of....., the Receiver appointed in the above suit or matter pursuant to order, dated the..... day of..... 19 for the period from the ..... day of ..... 19 to the ..... day of ..... 19 .

Date	Particulars of receipts and Payments	Receipts		Payments		Cr. or Dr.	Balance	
		Rs.	P.	Rs.	P.		Rs.	P.

Dated this ..... day of ..... 19 .

Receiver

TOP

Form No. 82

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
Land Acquisition Reference No. ..... of 19 .

Case No. .....
In the matter of the Land Acquisition Act, 1894.
Cause in the matter of--

(a) **Insert here the name of the Collector as defined in section 3(c) of the Land Acquisition Act, 1894.**

(a) .....

and

.....

CLAIMANTS.

To

(b) **Insert here the name of the Collector, but in a reference relating to apportionment only, the notice shall not be directed to the Collector.**

(b) .....

and

.....

CLAIMANTS.

Whereas by notification published in the Maharashtra Government Gazette of the ..... day of ..... 19 . Part I, at pages ..... expense of ..... the said land being as follows:--

.....

.....

And whereas on the ..... day of ..... 19 the (a) ..... made his ward under section 11 of the Land Acquisition Act, 1894, in respect of the said land and whereas the abovenamed ..... has not accepted the said award and has not accepted the said award and has requested by ..... day of ..... 19 that the matter be referred under section 18 of the said Act for decision of this Court on the grounds set forth in the said letter of his Advocate Mr. ..... and the matter has accordingly been so referred;

(c) **In a reference relating to apportionment only, this paragraph will be deleted**

Now take Notice that this Court will on the ..... day of ..... 19 , at 11 O/ 'clock in the forenoon proceed to determine the objections of the said ..... (c) (and you, the claimants, are hereby directed to furnish to the Collector abovenamed all your instances, rent, statements, valuations, plans or any other facts on which you rely within 14 days from the service of this notice on you and you, the Collector, are hereby directed within fourteen days after the claimants have complied with the above requisition to furnish to the claimants abovenamed all your instances, rent, statements, valuations, plans or any other facts on which you rely);

And you are hereby directed to appear on the said date and at the said time either in person or by any person entitled to practise in any Civil Court in the Court in the State and to produce such evidence as you intend to rely upon in the matter.

Dated this ..... day of ..... 19 .

Prothonotary and Senior Master.

Sealer

The ..... day of ..... 19 .

Advocate for .....

TOP

Form No. 83

Notice under section 30 of the Land Acquisition Act, 1894. (Rule 652)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

Land Acquisition Reference No. ..... of 19 .

Case No. .....

In the matter of the Land Acquisition Act, 1894. -

Cause in the matter of

(a) Insert here the name of the Collector as defined in Section 3(c) of the Land Acquisition Act, 1894.

(a) .....

and

(b) .....

Claimants.

To

(b) Insert the names of the parties interested.

(b) .....

.....Claimants.

Whereas by notification published in the Maharashtra Government Gazette of the ..... day of ..... 19 , Part I, at pages ..... it was declared that certain land was required to he taken by Government at the expense of .....

.....

the said land being described as follows :-

.....

.....

.....

.....

And whereas on the ..... day of 19

(c) Insert here the name of the Collector as defined in section 3(c) of the Land Acquisition Act, 1894.

(c) .....

has made a reference under section 30 of the Land Acquisition Act, 1894, relating to the apportionment of the amount of compensation settled by him and/or as to the persons to whom the same or any part thereof is payable;

TOP

Now Take Notice that this Court will on the ..... day of ..... 19 at 11 O'clock in the forenoon proceed to determine the said reference and you are hereby directed to appear on the said date and at the said time either in person or by and person entitled to practise in any Civil Court in the State and to produce such evidence as you intend to rely upon in the matter.

Dated this ..... day of ..... 19 .

Prothonotary and Senior Master.

Sealer

The ..... day of ..... 19 .

Advocate for .....

TOP

Form No. 84

Special Case Section 13 (b) of the Arbitration Act, 1940. (Rule 780)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. OF 19

Special Case

In the matter of the Arbitration Act, 1940

And

In the matter of an arbitration agreement dated the ..... day of 19

Between

A.B. (name, description and place of residence).

And

C.D. (name, description and place of residence).

or

In the matter of Suit No. ..... of 19 .

(TITLE OF THE SUIT)

The following special case is stated for the opinion of the Court :—(state the facts concisely in numbered paragraphs)

The questions of law for the opinion of the Court are :-

(1) Whether .....

(2) Whether .....

Dated this ..... day of ..... 19 .

Arbitrator

Umpire

TOP

Form No. 85

Notice under the Indian Divorce Act to appear and answer. (Rule 809)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. OF 19

In the matter of the Indian Divorce Act, 1869.

..... PLAINTIFF.

versus

..... RESPONDENT.

To

Whereas the petitioner abovenamed has instituted a suit against you, as set out in the petition herein, whereof the following is a concise statement, viz:-

Take notice that you are hereby required to file in this Court an appearance in person or a vakalatnama within fourteen days from the service of this notice upon you and to file your answer to the charges in the petition within fourteen days after filing your appearance in person or a vakalatnama;

And whereas this suit will be placed on board for hearing the final disposal on the ..... day of ..... 19 ;

You are hereby required to appear in this Court on the ..... day of ..... 19 at 11 O'clock in the forenoon either in person or by an Advocate entitled to practice in this Court and able to answer all material questions relating to the suit or who shall be accompanied by some other person able to answer all such questions;

And take notice that in default of your appearance either in person or by an Advocate on the day before mentioned, the suit will be heard and determined in your absence.

Witness ....., Chief Justice at Bombay aforesaid, this ..... day of ..... 19 .

Prothonotary and Senior Master.

Sealer

The ..... day of ..... 19 .

Advocate for .....

Note.—A copy of the petition will be furnished to the Respondent or the Correspondent by the petitioner or his Advocate on demand.

TOP

Form No. 86

Notice to appiy for leave to intervene. (Rule 808)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

MATRIMONIAL JURISDICTION

SUIT NO. OF 19

In the matter of the Indian Divorce Act, 1869.

..... PLAINTIFF.

versus

..... RESPONDENT.

To

Take notice that you are entitled within 14 days from the service of this notice upon you to apply by Chamber Summons for leave to intervene in this cause should you think fit so to do and thereafter to make answer to the charges in the petition herein and that in default of your so doing, the Court will proceed to hear the said charges proved and to pronounce judgment, your absence notwithstanding.

The petition is filed and this notice is issued by ..... Advocate for ....., whose address for service is ..... Bombay.

Dated this ..... day of ..... 19 .

Prothonotary and Senior Master.

Sealer

The ..... day of ..... 19 .

Advocate for .....

TOP

Form No. 87

Notice under section 21 of the Chartered Accountants Act, 1949. (Rule 866)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

REFERENCE NO. OF 19 .

(Under the Chartered Accountants Act, 1949)

In the matter of Chartered Accountants Act, 1949 (Act No. XXXVIII of 1949)

and

In the matter of ..... a Member of the Institute of Chartered Accountants of India.

To

(1) ....., Member of the Institute of Chartered Accountants of India.

(2) Secretary of the Council of the Institute of Chartered Accountants of India.

(3) Secretary to the Ministry of Finance, Union Government, New Delhi.

Whereas the Council of the Institute of Chartered Accountants of India has filed in this Court its finding dated the ..... day of .....19 in the above reference;

Now take notice that the reference will be placed for hearing before a Division Bench of this Court on the ..... day of ..... 19 at 11 O'clock in the forenoon, when you are required to appear either in person or by an Advocate entitled to practice in this Court;

And take further notice that in default of your appearance either in person or by an Advocate the reference will be heard and determined in your absence.

Dated this ..... day of ..... 19 .

Prothonotary and Senior Master.

Sealer

The ..... day of ..... 19 .

Advocate for .....

TOP

Form No. 88

Notice under section 22-A(1) of the Chartered Accountants Act, 1949. (Rule 866)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPEAL No. OF 19 .

(Under the Chartered Accountants Act, 1949)

In the matter of the Chartered Accountants Act, 1949.

(Act No. XXXVIII of 1949)

and

In the matter of ..... a member of the Institute of Chartered Accountants of India.

..... APPELLANT.

To

Secretary of the Council of the Institute of Chartered Accountants of India.

Whereas the appellant abovenamed has filed in this Court in appeal against the order dated the ..... day of ..... 19 of the Council of the Institute of Chartered Accountants of India:

You are required to forward to the Prothonotary and Senior Master, within two weeks from the date of service of this notice upon you, the finding of the Council and all the other documents mentioned in Rule 865 (1) of the Rules of the High Court (Original Side) and the extra copies referred to in sub-rule (3) of the said rule; and

Now take notice that the appeal will placed for hearing before a Division Bench of this Court on the ..... day of ..... 19 at 11 O'clock in the forenoon, when you are required to appear either in person or by an Advocate entitled to practise in this Court;

And take further notice that in default of your appearance either in person or by an Advocate the appeal will be heard and determined in your absence.

Dated this ..... day of ..... 19 .

Prothonotary and Senior Master.

Sealer

The ..... day of ..... 19 .

Advocate for .....

TOP

Form No. 89

Notice under section 22-A(2) of the Chartered Accountants Act, 1949. (Rule 866)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

REVISION APPLICATION NO. OF 19

(Under the Chartered Accountants Act, 1940

In the matter of the Chartered Accountants Act,1949

(Act No. XXXVIII of 1949)

and

In the matter of ..... a member of the Institute of Chartered Accountants of India.

..... APPELLANT.

To

(1) ..... Member of the Institute of Chartered Accountants of India.

(2) Secretary of the Council of the Institute of Chartered Accountants of India.

Whereas, the applicant abovenamed has filed in this Court a revision application against the order dated the ..... day of ..... 19 of the Council of the Institute of Chartered Accountants of India;

(a) This para to be inserted only in the notice to be sent to the Secretary of the Council of the Institute of Chartered Accountants of India.

You are required to forward to the Prothonotary and Senior Master, within two weeks from the date of service of this notice upon you, the finding of the Council and all the other documents mentioned in rule 865(1) of the Rules of the High Court (Original Side) and the extra copies referred to in sub-rule (3) of the said rule; and

Now take notice that the revision application will be placed for hearing before a Division Bench of this Court on the ..... day of ..... 19 at 11 O'clock in the forenoon, when you are required to appear either in person or by an Advocate entitled to practise in this Court;

And take further notice that in default of your appearance either in person or by an Advocate, the application will be heard and determined in your absence.

Dated this ..... day of ..... 19 .

Prothonotary and Senior Master.

Sealer

The ..... day of ..... 19 .

Advocate for .....

TOP

Form No. 90

Memorandum of Appeal under Order XII, Rule 1 of the Code of Civil Procedure (Rule 877)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

IN APPEAL FROM ITS ORIGINAL CIVIL JURISDICTION

APPEAL NO. OF 19 .

SUIT NO. OF 19 .

..... APPELLANT.

(Original Plaintiff or Defendant).

versus

..... RESPONDENT.

[Insert name] (Original Defendant or Plaintiff).

The appellant abovenamed appeals against the (decree or order) of the Honourable Mr. Justice ..... in the above suit passed on the ..... day of ..... 19 , on the following amongst other grounds :-

First -That (here state grounds of appeal).

TOP

Form No. 91

Notice under Order XII Rule 14 of the Code of Civil Procedure.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

IN APPEAL FROM ITS ORIGINAL CIVIL JURISDICTION

APPEAL NO. OF 19 .

SUIT NO. OF 19 .

..... APPELLANT.

versus

.....RESPONDENT.

To

The abovenamed respondent.

Take notice that a Memorandum of Appeal has been filed on the ..... day of ..... 19 by the abovenamed ..... against the decree of the Honourable Mr. Justice ..... passed in the above suit on the ..... day of ..... 19 and that this Court has fixed the ..... day of .....19 for the hearing of the said appeal.

If you have any objection to take to the said decree which you could have taken thereto by way of appeal, you must file the same in this office within one month from the service upon you of this notice, and if you do not appear in the Appellate Court on the day so fixed for the hearing of the said appeal, the appeal will be heard and decided ex-parte in your absence.

Dated this ..... day of ..... 19 .

Prothonotary and Senior Master.

Sealer

The ..... day of ..... 19 .

Advocate for .....

TOP

Form No. 92

Security bond under Order XII, Rule 5 of the Code of Civil Procedure.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

IN APPEAL FROM ITS ORIGINAL CIVIL JURISDICTION

APPEAL NO. OF 19 .

SUIT NO. OF 19 .

..... APPELLANT.

versus

..... RESPONDENT.

Know all men by these presents that we, ... and ..... are held and firmly bound jointly and severally to ....., Prothonotary and Senior Master of the High Court of Judicature at Bombay, and his successor or successors in office and his or their assigns in the sum of Rupees ..... to be paid to the said ....., Prothonotary and Senior Master, and his successor or successors in Office and his or their assigns, as the case may be, for which payment to be well and truly made we do bind ourselves and each and every one of us jointly and severally and our respective heirs, executors, administrators firmly by these presents, which are sealed hereunder with our seals.

Dated this ....., day of ..... 19 ,

Whereas the abovenamed ..... has appealed against the ..... decree/order passed in the above mentioned suit;

Now, the conditions of this obligation is such that if the above bounded do and shall duly perform and obey the decree or order which shall be passed by this Court upon the said appeal then this obligation shall be void and of no effect, but otherwise the same shall remain in full force and effect.

Signed, sealed and delivered by the
abovenamed

In the presence of

TOP

Form No. 93

Petition or grant of a certificate for appeal to the Supreme Court.
(Rule 910)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
IN APPEAL FROM ITS ORIGINAL CIVIL JURISDICTION
APPEAL NO. OF 19 .
SUIT NO. OF 19 .

..... APPELLANT.
(Original Plaintiff or Defendant).

versus

..... RESPONDENT.
(Original Defendant or Plaintiff).

THE PETITION OF (here insert name of Petitioner) ..... Petitioner.

To

The Honourable the Chief Justice and Judges of the High Court :

Sheweth:

1. That this suit was filed by ..... the plaintiff in the High Court at Bombay who prayed (here set out concise statement and give amount or value of subject-matter).
2. That the said suit came on for hearing before the Honourable Mr. Justice ..... on the ..... day of ..... and His Lordship passed a decree (or order) on ..... day of 19
3. That the abovenamed appellant (here insert name of appellant) feeling himself aggrieved by the said decree (or Order) filed a Memorandum of Appeal against the same on the ..... day of ..... 19 .
4. That the said appeal came on for hearing on the ..... day of ..... 19 , before the Honourable Mr. Justice ..... and the Honourable Mr. Justice ..... and Their Lordships passed a decree (or order) on the ..... day of 19
5. That your petitioner feeling himself aggrieved by the said decree (or order) is desirous of appealing to the Supreme Court of India from the same on the grounds following (here state the grounds and number them consecutively).
6. That the case involves a substantial question of law as to the interpretation of the Constitution of India (or that the case involves a substantial question of law of general importance and that the said question needs to be decided by the Supreme Court).

TOP

7. That your petitioner is ready and willing to comply with the rules and orders as to giving security for costs and otherwise regulating appeals to the Supreme Court.

Your petitioner therefore prays that Your Lordship will be pleased,

(a) to grant him a certificate that (here state nature of certificate required as set out in paragraph 6); and

(b) to transmit to the Supreme Court of India the original record of the suit and of the appeal in the High Court, so far as is material to the questions in dispute in the appeal to the Supreme Court.

TOP

Form No. 94

Notice of application for certificate for an appeal to the Supreme Court. (Rule 913)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

IN APPEAL FROM ITS ORIGINAL CIVIL JURISDICTION

APPEAL NO. OF 19 .

SUIT NO. OF 19 .

..... APPELLANT.

(Original Plaintiff or Defendant).

versus

..... RESPONDENT.

(Original Defendant or Plaintiff).

To

(Fill in name of the opposite party).

Take notice that on the ..... day of ..... 19 the ..... abovenamed presented a petition to this Court for the grant of certificate for the purpose of an appeal to the Supreme Court of India from the decree (or order) of this Court dated the ..... day of ..... 19 .

And that you are hereby required to file an affidavit within eight days from the service of this notice upon you showing cause, if any you have, why a certificate should not be granted to the following effect, viz :

(Here insert the terms of certificate prayed for in the petition)

And take further notice that the petition will be placed for hearing before the Appellate Court on the ..... day of ..... 19 at 11 a.m. in the forenoon, when you are required to appear.

Dated this ..... day of ..... 19 .

Prothonotary and Senior Master.

Sealer

The ..... day of ..... 19 .

Advocate for .....

TOP

Form No. 95

Order granting Certificate for Appeal to the Supreme Court.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
IN APPEAL FROM ITS ORIGINAL CIVIL JURISDICTION
APPEAL NO. OF 19 .
SUIT NO. OF 19 .

CORAM :
Dated :

..... APPELLANT.
(Original Plaintiff or Defendant).

versus

..... RESPONDENT.
(Original Defendant or Plaintiff).

Upon Reading the petition of ..... the appellants/respondent abovenamed filed on the ..... day of ..... 19 , praying for the grant of a certificate for the purpose of appealing to the Supreme Court of India against the decree/order of this Court dated the ..... day of ..... 19 , affirming/setting aside the original decree/order dated the ..... day of ..... 19 of the Honourable Mr. Justice ..... And Upon Reading the affidavits (if any) mentioned in the list "A" hereto and upon hearing ..... Advocate for the petitioner (original plaintiff/defendant), and ..... Advocate for the Respondent (original defendant/plaintiff), this Court doth certify (here state the nature of the certificate that is granted by the Court) and this Court doth order that the original record of the suit/matter and of the appeal in the High Court so far as is material to the question and disputes in the appeal to the Supreme Court be transmitted by the Prothonotary and Senior Master to the Registrar of the Supreme Court of India And This Court doth further order that the costs of both the parties of the said petition and of this order be costs in the appeal to the Supreme Court.

Witness ....., Chief Justice at Bombay aforesaid this ..... day of ..... 19 .

Prothonotary and Senior Master.

Sealer

The ..... day of ..... 19 .

Order granting Certificate for appeal to the Supreme Court drawn on the application of

Advocate for .....

LIST "A"

TOP

Form No. 96

Notice of lodgment of petition of appeal in the Registry of the Supreme Court. (Rule 915)

IN THE SUPREME COURT OF INDIA

APPEAL NO. OF 19 .

FROM THE DECISION OF THE HIGH COURT AT BOMBAY

IN APPEAL NO. OF 19 .

..... APPELLANT IN S.C;

versus

..... RESPONDENT IN S.C.

To

(Here insert name of the Respondent)

Take notice that the appellant abovenamed has lodged his petition of appeal in the above case in the Registry of the Supreme Court of India. A copy of the said petition is forwarded herewith to you.

Dated this ..... day of..... 19 .

Prothonotary and Senior Master.

Sealer

The ..... day of ..... 19 .

Advocate for .....

TOP

Form No. 97

TESTAMENTARY AND INTESTATE JURISDICTION

Petition for probate of a will. (Rule 374)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

TESTAMENTARY AND INTESTATE JURISDICTION

PETITION NO. OF 19

Petition for probate of the will of (a)

..... Deceased.

..... Petitioner.

(a) Insert name in full, place of residence and occupation. If deceased was a bachelor or spinster that should be stated.

THE PETITION OF THE PETITIONER ABOVENAMED

TO THE HON'BLE THE CHIEF JUSTICE AND JUDGES OF THE HIGH COURT

SHEWETH :-

(1) That the abovenamed ..... died at ..... on or about the ..... day of .....·19 .

(2) That the said deceased at the time of his death had a fixed place of abode at ..... and/or left property within Greater Bombay and in the State of Maharashtra and elsewhere in India.

(3) That the said deceased left a writing, which is his last will and testament. The said writing, hereinafter referred to as the will, is marked Exhibit "A" and is handed in separately for being filed and kept in a safe place in the office of the Prothonotary and Senior Master. A copy of the said will is hereto annexed and also marked Exhibit "A".

(4) That the said will was duly executed at ..... on the ..... day of ..... 19 .

(5) That the petitioner is the executor or one of the executors named in the said will or the executor according to the tenor thereof.

(6) That the petitioner has truly set forth in schedule No. I, hereto annexed and marked Exhibit "B", all the property and credits which the deceased died possessed of or entitled to at the time of his death, which have or are likely to come to his hands.

(7) That the petitioner has truly set forth in schedule No. II, hereto annexed the marked Exhibit "C", all the items that by law he is allowed to deduct for the purpose of ascertaining the net estate of the deceased.

(8) That the petitioner has truly set forth in Schedule No. III, hereto annexed and

TOP

marked Exhibit "D", the property held by the deceased as trustee for another and not beneficially or with general power to confer a beneficial interest.

(9) That the assets of the deceased after deducting the items mentioned in Schedule No. II but including all rents, interest and dividends which have accrued since the date of the death of the deceased and increased value of the assets since the said date are of the value of Rs. .....

(b) State what law.

(10) That the said deceased left him surviving as his only heirs and next-of-kin according to (b) ..... law the following persons, who are residing at the addresses set out against their respective names :-

(c) or if made, state to what Court, by what person and what proceedings have been taken.

(11) That no application has been made to any District Court or District Delegate or to any other High Court for probate of any will of the said deceased or for letters of administration with or without the will annexed to his property and credits.

(d) or throughout India.

The petitioner prays that probate may be granted to him having effect throughout the State of Maharashtra (d).

I. ....., the petitioner abovenamed do swear in the name of God / solemnly affirm ..... is true to my own knowledge and that what is stated in the remaining paragraphs is stated on information and belief and I believe the same to be true.

Sworn / Solemnly affirmed at .....

this ..... day of 19

Before me,

Assistant Master/Associate,

High Court, Bombay.

Advocate for .....

TOP

Form No. 98

Schedule of property of the deceased (Rules 374, 375 and 376)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

TESTAMENTARY AND INTESTATE JURISDICTION

PETITION NO. OF 19 .

Petition for (Title as in the Petition)

..... Deceased.

..... Petitioner.

SCHEDULE NO. I

Schedule of Property

Valuation of the movable and immovable property of the deceased.

Rs. P.

Cash in the house and at the banks. household goods, wearing apparel, books, plate, jewels, etc.--

(State estimated value according to the best of executor's or administrator's belief).

Government Securities -

(State description and value at the time of making the application; also the interest separately, calculating it upto the time of making the application).

Immovable property consisting of -

(State description giving, in the case of houses, the assessed value if any, and the number of years' assessment the market value is estimated at, and, in case of land, the area, the market value and all rents that have accrued) .

Leasehold property -

(If the deceased held any leases for years determinable, state the number of year's purchase, the profit rents estimated to be worth and the value of such, inserting separately arrears due at the date of death and all rents received or due since that date upto the time of making the application).

Share of joint Stock Companies -

(State the particulars and the value at the time of making the application; also the dividend separately calculating it upto the time of making the application.)

Policy of Insurance upon life, money out on mortgage and other securities, such as bonds, mortgages, bills, notes and other securities

TOP

Rs. P.

for money-

(State the amount of the whole; also the interest separately calculating it upto the time of making the application.)

Book Debts-

(other than bad).

Stock-in-trade—

(State the estimated value, if any).

Other property not comprised under the foregoing heads—

(State the estimated value, if any).

Total

Deduct amount shown in Schedule No. II, not subject to duty

Net Total

Petitioner

TOP

Form No. 99

Schedule of debts of the deceased etc. (Rules 374, 375 and 376).

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

TESTAMENTARY AND INTESTATE JURISDICTION

PETITION NO. OF 19

Petition for (Title as in the Petition)

..... Deceased.

.....Petitioner.

SCHEDULE NO. II

Schedule of Debts, etc.

	Rs. P.
Amount of debts due and owing from the deceased, payable by law out of the estate (a).	
Amount of Funeral expenses.	
Amount of mortgage incumbrances.	
Other property not subject to duty.	
Total	

Petitioner

(a) Full particulars of debts with names of creditors and dates of debts must be given.

TOP

Form No. 100

Schedule of trust property held by the deceased. (Rules 374, 375 and 376).

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

TESTAMENTARY AND INTESTATE JURISDICTION

PETITION NO. OF 19 .

Petition for (Title as in the Petition)

..... Deceased.

.....Petitioner.

SCHEDULE NO. III

Schedule of Trust Property

	Rs.	P.
Property held in trust for another and not beneficially or with general power to confer a beneficial interest.		
Total		

Petitioner.

TOP

Form No. 101

Executor's Oath. (Rule 374)

(a) Insert name in full, place of residence and occupation. If deceased was a bachelor or spinster that should be stated.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

TESTAMENTARY AND INTESTATE JURISDICTION

PETITION NO. OF 19 .

Petition for probate of the will of (a)

..... Deceased.

.....Petitioner.

I, ... do swear in the name of God that I believe that the Will referred to in the

solemnly affirm

petition herein and marked Exhibit "A" is the last Will and testament of .. deceased and that I am the executor therein named (or appointed according to the tenor thereof) and that I will faithfully administer the property and credits of the said deceased and in any way concerning his will by paying his debts and then the legacies therein bequeathed so far as the said assets will extend, and that I will make and exhibit a full and true inventory of the said property and credits in this Hon'ble Court within six months from the date of the grant to be made to me or within such further time as the said Court may from time to time appoint and also render a true account of my administration to this Hon'ble Court within one year from the same date or within such further time as the said Court may from time to time appoint.

Sworn

Solemnly affirmed at .....

This ..... day of ..... 19 .

Before me,

Assistant, Master/Associate.

High Court, Bombay.

Advocate for .....

TOP

Form No. 102

Affidavit of the attesting witness (Rules 374 and 375)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
PETITION NO. OF 19 .

Petition for probate of the last Will and testament of
..... Deceased.
..... Petitioner.

I, ... do swear in the name of God / solemnly affirm and say as follows :

(1) That I knew and was well acquainted with the deceased ..... abovenamed.

(2) That on the ..... day of ..... 19 I was present together with ..... at the house of ..... and we did then and there see the deceased set and subscribe his name at foot of the testamentary paper in the ..... language and character, which is referred to in the petition herein and marked Exhibit "A", and declare and publish the same as his last Will and testament.

(3) That thereupon I, this deponent and the said ..... did at the request of the said deceased and in his presence and in the presence of each other all being present at the time set and subscribe our respective names and signatures at foot of the said testamentary paper as witnesses thereto.

(4) That the name and signature ..... subscribed at the foot of the testamentary paper as of the party executing the same is in the proper handwriting of the said deceased and the name, signature and additions "....." also subscribed and written at foot of the said testamentary paper as of the parties attesting execution of the same are in the proper respective handwritings of the said ..... and of me this deponent respectively.

(5) That at the time the said deceased so subscribed his name and signature to the said will as aforesaid ..... he was of sound and disposing mind, memory and understanding and to the best of my belief made and published the name of his free will and pleasure.

Sworn / Solemnly affirmed at .....
this ..... day of ..... 19 .

Before me,
Assistant, Master/Associate,
High Court, Bombay.

Advocate for ....

Note.- If the testator makes a mark or signs in a language other then the Will is written in, the affidavit should state whether the Will was read over and explained to him, and if there are any scorings, alterations or insertions, it should be stated whether they existed at the time of the execution of the Will.

TOP

Form No. 103

Petition for Letters of Administration (Rule 376)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

TESTAMENTARY AND INTESTATE JURISDICTION

PETITION NO. OF 19 .

Petition for Letters of Administration to the property and credits of (a) .....

..... Deceased.

..... Petitioner.

(a) Insert name in full, place of residence and occupation. If the deceased was bachelor or spinster that should be stated.

THE PETITION OF THE PETITIONER ABOVENAMED

TO

THE HONOURABLE THE CHIEF JUSTICE AND JUDGES OF THE HIGH COURT

SHEWETH :-

(1) That the abovenamed ..... died at ..... on or about the ..... day of ..... 19 .

(2) That the said deceased at the time of his death had a fixed place of abode at ..... and/or left property within Greater Bombay and in the State of Maharashtra and elsewhere in India.

(3) That he said deceased died intestate and that due and diligent search has been made for a will but none has been found.

(b) State what law.

(4) That the said deceased left him surviving as his only heirs and next-of-kin according to (b) to ..... law the following persons, who are residing at the addresses set out against their respective names :-

(c) State, the relationship to the deceased.

(5) That the petitioner as (c) ..... of the deceased claims to be ..... entitled to a ..... share of his estate.

(6) The petitioner has truly set forth in Schedule No. I, hereto annexed and marked Exhibit "A", all the property and credits which the deceased died possessed of or entitled to at the time of his death which have or are likely to come to the petitioner's hands.

(7) That the petitioner has truly set forth in Schedule No. II, hereto annexed and marked Exhibit "B" all the items that by law he is allowed to deduct for the purpose of ascertaining the net estate of the deceased.

TOP

(8) That the petitioner has truly set forth in Schedule No. III, hereto annexed and marked Exhibit "C", the property held by the deceased as a trustee for another and not beneficially or with general power to confer a beneficial interest.

(9) That the assets of the deceased after deducting the items mentioned in Schedule No. II but including all rents, interest and dividends which have accrued since the date of the death of the deceased and increased value of the assets since the said date are of the value of Rs. .....

(d) Or if made, state to what Court, by what person and what proceedings have been taken.

(10) That no application has been made to any District Court or District Delegate or to any High Court for Probate of any will of the said deceased or for letter of administration with or without the will annexed to his property and credits. (d).

(e) or throughout India.

(e) The petitioner therefore prays that letters of administration may be printed to him having effect throughout the State of Maharashtra (e).

I, ... the petitioner abovenamed, do swear in the name of God that what is stated in paragraph ..... is true to my own

solemnly affirm

knowledge and that what is stated in the remaining paragraphs is stated on information and belief and I believe the same to be true.

Sworn

Solemnly affirmed at .....

This ..... day of ..... 19 .

Before me,

Assistant Master/Associate.

High Court. Bombay.

Advocate for .....

TOP

Form No. 104

Administrator's Oath. (Rule 376)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

TESTAMENTARY AND INTESTATE JURISDICTION

PETITION NO. OF 19 .

Petition for letters of administration

to the property and credits of (a)

(a) **Insert name in full, place of residence and occupation. If deceased was a bachelor or spinster that should be stated.**

..... Deceased.

..... Petitioner.

I, ... swear in the name of God

solemnly affirm

that I believe that ..... deceased died without leaving a Will and that I am the (b) ..... of the deceased, and that I will well and truly administer his property and credits according to law and pay his debts so far as the said effects will extent, and that I will make and exhibit a full and true inventory thereof in this Hon'ble Court within six months from the date of the grant to be made to me or within such further time as the said Court may from time to time appoint, and also render a true account of my administration to this Hon'ble Court within one year from the same date or within such further time as the said Court may from time to time appoint.

Sworn

Solemnly affirmed at .....

This ..... day of ..... 19 .

Before me,

Assistant, Master/Associate,

High Court, Bombay.

Advocate for .....

TOP

Form No. 105

Petition for Letters of Administration with will annexed. (Rule 375)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

TESTAMENTARY AND INTESTATE JURISDICTION

PETITION NO. OF 19

Petitioner for Letters of Administration with the will annexed to the property and credits of (a) ..... Deceased.

(a) Insert the name in full, place of residence and occupation. If deceased was a bachelor or spinster, that should be stated.

..... Petitioner.

THE PETITION OF THE PETITIONER ABOVENAMED

TO

THE HON'BLE THE CHIEF JUSTICE AND JUDGES OF THE HIGH COURT,

SHEWETH :-

(1) That the abovenamed ..... died at ..... on or about the ..... day of ..... 19 .

(2) That the said deceased at the time of his death had a fixed place of abode at ..... on and/or left property within Greater Bombay and in the State of Maharashtra and elsewhere in India.

(3) That the said deceased left a writing, which is his last will and testament. The said writing, hereinafter referred to as "the will ", is marked Exhibit "A" and is handed in separately for being filed and kept in a safe place in the office of the Prothonotary and Senior Master. A copy of the said will is hereto annexed and also market Exhibit "A".

(4) That the said will was duly executed at ..... on the ..... day of ..... 19 .

(5) That by the said will the deceased appointed ..... sole executor thereto (b), but he has since died, to wit on the ..... day of ..... 19 without having proved the said will, and that the abovenamed petitioner is the ..... of the deceased.

(b) Or no executor, as the case may be

(6) That the petitioner has truly set forth in Schedule No. I, hereto annexed and marked Exhibit "B", all the property and credits which the deceased died possessed of or entitled to at the time of his death, which have or are likely to come to his hands.

(7) That the petitioner has truly set forth in Schedule No. II, hereto annexed and

TOP

marked Exhibit "C", all the items that by law he is allowed to deduct for the purpose of ascertaining the net estate of the deceased.

(8) That the petitioner has truly set forth in Schedule No. III, hereto annexed and marked Exhibit "D", the property held by the deceased as trustee for another and not beneficially or with general power to confer a beneficial interest.

(9) That the assets of the deceased after deducting the items mentioned in Schedule No. II, but including all rents, interest and dividends which have accrued since the date of the death of the deceased and increased value of the assets since the said date are of the value of Rs. .....

(10) That the said deceased left him surviving as his only heirs and next-of-kin according to (c) ..... law the following persons, who are residing at the addresses set out against their respective names :-

(C) State what Law.

(11) That no application has been made to any District Court or District Delegate or to any other High Court for probate of any will of the said deceased or for letters of administration with or without the will annexed to his property and credits (d).

(d) Or if made, state to what Court, by what person and what proceedings have been taken.

The petitioner prays that letters of administration with the said will annexed may be granted to him as the ..... of the said deceased having effect throughout the State of Maharashtra (e) .

(e) Or throughout India.

I, ... the petitioner abovenamed, do swear in the name of God / solemnly affirm that what is stated in paragraphs ..... is true to my own knowledge, and that what is stated in the remaining paragraphs is stated on information and belief and I believe the same to be true.

Sworn / Solemnly affirmed at .....

This ..... day of ..... 19 .

Before me,

Assistant, Master/Associate,

High Court, Bombay.

Advocate for .....

TOP

Form No. 106

Administrator's Oath in the case of Letters of Administration with the will annexed. (Rule 375)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

TESTAMENTARY AND INTESTATE JURISDICTION

PETITION NO. OF 19 .

Petition for Letters of Administration with
the will annexed to the property and credits
of (a) ..... Deceased.

(a) Insert the name in full, place of residence and occupation. If deceased was a bachelor or spinster, that should be stated.

..... Petitioner.

(b) State in what right the petitioner applies.

I ..... do swear in the name of God that I
solemnly affirm
believe that the will referred to in the petition herein and marked Exhibit "A" is the last will and testament of ..... deceased and that I am the (b)..... of the deceased and that I will faithfully administer the property and credits of the said deceased and in any way concerning his will by paying first his debts and then the legacies therein bequeathed so far as the said assets will extend and that I will make and exhibit a full and true inventory of the said property and credits in this Hon'ble Court within six months from the date of the grant to be made to me or within such further time as the said Court may from time to time appoint, and also render a true account of my administration to this Hon'ble Court within one year from the same date or within such further time as the said Court may from time to time appoint.

Sworn

Solemnly affirmed at .....

This ..... day of ..... 19 .

Before me,

Assistant, Master/Associate,

High Court, Bombay.

Advocate for .....

TOP

Form No. 107

Petition by constituted attorney for Letters of Administration with copy of authenticated copy of the will annexed.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

TESTAMENTARY AND INTESTATE JURISDICTION

PETITION NO. OF 19 .

Petition for Letters of Administration (with a copy of an authenticated copy of the will annexed) to the property and credits of

(a).....

..... Deceased.

(a) Insert name in full, place of residence and occupation. If the deceased was a bachelor or spinster, that should be stated

..... constituted attorney of .....executor or executors named in the will of the above-named deceased.

..... Petitioner.

THE PETITION OF THE PETITIONER ABOVENAMED

TO

THE HON'BLE THE CHIEF JUSTICE AND JUDGES OF THIS HIGH COURT,

SHEWETH :-

(1) That the abovenamed ..... died at ..... on the ..... day of ..... 19 .

(2) That the said deceased at the time of death left property within Greater Bombay and in the State of Maharashtra and elsewhere in India.

(3) That hereto annexed and marked Exhibit "A", is the properly authenticated copy of the probate of the will of the said deceased which probate was granted on the ..... day of ..... 19 under the seal of the ..... to the said ....., executor named in the said will.

(4) That the said ..... is to the best of the petitioner's beliefs at present residing at ..... in .....

(5) That the petitioner has truly set forth in Schedule No. I, hereto annexed and marked. Exhibit "B" all the property and credits which the deceased died possessed of or entitled to at the time of his death, which have or are likely to come to his hands.

(6) That the petitioner has truly set forth in Schedule No. II, hereto annexed and marked Exhibit "C", all the items that by law he is allowed to deduct for the

TOP

purpose of ascertaining the net estate of the deceased.

(7) That the petitioner has truly set forth in Schedule No. III, hereto annexed and marked Exhibit "D", the property held by the deceased as trustee for another and not beneficially or with general power to confer a beneficial interest.

(8) That the assets of the deceased after deducting the items mentioned in Schedule No. II but including all rents, interest and dividends which have accrued since the date of the death of the deceased and increased value of the assets since the said date are of the value of Rs. .....

(9) That the said ..... as such executor as aforesaid has by the power of attorney, hereunto annexed and marked Exhibit "E", bearing date the ..... day of ..... 19 appointed ..... to be his attorney for him and in his name and on his behalf to apply for and obtain a grant of letters of administration to the estate of the said deceased, with a copy of the said probate of the said will annexed, from the High Court at Bombay or any other competent Court in India limited to the property which the said ..... died possessed of or entitled to in India.

(10) That no application has been made to any Court, other than the Court referred to in paragraph 3 above, for probate of any will of the said deceased nor to any Court for letters of administration to his property and credits (with or without a copy of an authenticated copy of the will annexed) (b) .

(b) or if made, state to what Court, by what person and what proceedings have been taken.

The Petitioner prays that letters of administration (with a copy of the authenticated copy of the will annexed) to the property and credits of the said ..... deceased may be granted to him, having effect throughout the State of Maharashtra/ India for the use and benefit of the said ..... as such executor as aforesaid and limited until he shall obtain probate of the said will from this Hon'ble Court.

I, ..., the petitioner abovenamed, do swear in the name of God that what is stated in paragraphs .....is true to my

solemnly affirm

own knowledge and that what is stated in the remaining paragraphs is stated on information and belief and I believe the same to be true.

Sworn

Solemnly affirmed at .....

This ..... day of ..... 19 .

Before me,

Assistant, Master/Associate,

High Court, Bombay.

Advocate for .....

TOP

Form No. 108

Administrator's oath in cases where letters of administration with copy of authenticated copy of the will are granted to Constituted Attorney.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

TESTAMENTARY AND INTESTATE JURISDICTION

PETITION NO. OF 19

Petition for Letters of Administration (with a copy of an authenticated copy of the will annexed) to the property and credits of (a) ..... Deceased.

(a) Insert name In full, place of residence and occupation. If the deceased was a bachelor or spinster, that should be stated.

..... constituted attorney of ..... executor or executors named in the will of the above-named deceased.

..... Petitioner.

I, ... the constituted attorney of ..... the executor named in the will of the above named deceased, the petitioner abovenamed do swear in the name of God / solemnly affirm that I believe that the writing referred to in the petition herein and marked Exhibit "A" is the authenticated copy of the probate and of the last will of the abovenamed ..... deceased and that the original probate has been granted on the ..... day of ..... 19 under the seal of the ..... to the said ..... and that the writing referred to in the petition herein and marked Exhibit "E" is the power of attorney executed by the said ..... the executor named in the said will, and that I am the attorney therein named and that I will faithfully administer the property and credits of the said deceased and in any way concerning his will for use and benefit of him the said ..... executor named in the said will and limited until he shall obtain probate of the said will from this Hon'ble Court by paying such lawful claims as I know of so far as the said assets will extend and that I will exhibit a full and true inventory of the said property and credits in this Hon'ble Court within six months from the date of the grant to be made to me or within such further time as the said Court may from time to time appoint, and also render a true account of my administration to this Hon'ble Court within one year from the same date or within such further time as the said Court may from time to time appoint.

Sworn / Solemnly affirmed at .....

This ..... day of ..... 19 .

Before me,

Assistant, Master/Associate,

High Court, Bombay.

Advocate for .....

TOP

Form No. 109

Petition for Judge's order to apply for letters of administration for the use and benefit of a minor.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

TESTAMENTARY AND INTESTATE JURISDICTION,

MISCELLANEOUS PETITION NO. OF 19 .

Petition for Letters of Administration
to the property and credits of .....
Deceased.

..... Petitioner.

THE PETITION OF THE PETITIONER ABOVENAMED

TO

THE HON'BLE THE CHIEF JUSTICE AND JUDGES OF THIS HIGH COURT

SHEWETH :-

(1) That ..... the deceased abovenamed died at ..... on or about the ..... day of ..... 19 .

(2) That the said deceased left property within Greater Bombay and in the State of Maharashtra and elsewhere in India.

(3) That the petitioner believes that the said deceased died intestate and that although due and diligent search has been made for a Will of the deceased, none has been found.

(4) That the said deceased left him surviving as his only heir and next-of kin according to (a) ..... law ..... who is a minor.

(a) State what law.

(5) That the petitioner is the ..... of the said minor who lives with and under the care and protection of your petitioner.

(6) That in order to protect the property left by the deceased and in the interest of the said minor your petitioner is desirous of applying to this Hon'ble Court for letters of administration and with that view to make a proper petition to this Hon'ble Court.

(7) That your petitioner has no interest in the estate of the deceased directly or indirectly adverse to that of the said minor ..... except .....

(8) Your petitioner prays that he as the ..... of the said deceased ..... and the ..... of the said minor may be appointed for the purpose of applying for letters of administration to the property and credits of the said deceased for the use and benefit of the said minor ..... and limited to the period of his minority.

TOP

I, ... the petitioner abovenamed, do swear in the name of God that what is stated in paragraphs

solemnly affirm

..... of this petition is true to my own knowledge and that what is stated in the remaining paragraphs ..... is stated on information and belief and I believe the same to be true.

Sworn

Solemnly affirmed at .....

This ..... day of ..... 19 .

Before me,

Assistant, Master/Associate,

High Court, Bombay.

Advocate for .....

TOP

Form No. 110

Petition for succession certificate. (Rule 377)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

TESTAMENTARY AND INTESTATE JURISDICTION

PETITION No. OF 19 .

Petition for succession certificate in respect of certain debts and securities belonging to (a) ..... Deceased.

(a) Insert name in full, place of residence and occupation. If deceased was a bachelor or spinster, that should be stated.

..... Petitioner.

THE PETITION OF THE PETITIONER ABOVENAMED

TO

THE HON'BLE THE CHIEF JUSTICE AND JUDGES OF THIS HIGH COURT

SHEWETH :-

(1) That the abovenamed ..... died at ..... in or about the ..... day of ..... 19 .

(2) That the said deceased ordinarily reside at ..... and/or left property within Greater Bombay and in the State of Maharashtra and elsewhere in India.

(3) That the said deceased died intestate and that due and diligent search has been made for a will but none has been found.

OR

The said deceased died leaving a Will dated ..... and executed at ..... a copy of which is hereto annexed and marked Exhibit 'A'.

(4) That the said deceased left him surviving as his only heirs and next-of-kin according to (b) ..... law the following persons, who are residing at the addresses set out against their respective names :-

(b) State What Law.

(5) That the petitioner as (c) ..... of the deceased claims to be entitled to a ..... share of the estate.

(c) State relationship to the deceased

(6) That there is no impediment under section 370 of the Indian Succession Act, 1925, or under any other provision of this Act or any other enactment to the grant of the certificate or the validity thereof if it were granted.

(7) That the petitioner has truly set forth in the Schedule, hereto annexed and marked

TOP

Exhibit "B", the debts and securities in respect of which the certificate is applied for. The succession certificate is required for the purpose of (d) ..... The said assets in respect of which the succession certificate is required are of the value of Rs. .....

(d) Mention the purpose for which the certificate is required.

(8) That no application has been made to any District Court or District Delegate or to any High Court for probate of any Will of the said deceased or for letters of administration with or without the Will annexed to his property and credits.

(9) That no application has been made to any District Court or District Delegate or to any High Court for succession certificate in respect of any debt or security belonging to the estate of the deceased (e).

(e) or if made, state to what Court, by what person and what proceedings have been taken

The petitioner therefore prays that a succession certificate may be granted to the petitioner in respect of the debts and securities set forth in Schedule I hereto, with power to collect the said debts and to receive interest or dividend on and to negotiate or transfer the said securities.

I, ... the petitioner abovenamed, do swear in the name of God / solemnly affirm that what is stated in paragraphs ..... of this petition is true to my own knowledge and that what is stated in the remaining paragraphs ..... is stated on information and belief and I believe the same to be true.

Sworn / Solemnly affirmed at

This ..... day of ..... 19 .

Before me,

Assistant, Master/Associate,

High Court, Bombay.

Advocate for .....

TOP

Form No. 111

Schedule of debts and securities of the deceased. (Rule 377)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

TESTAMENTARY AND INTESTATE JURISDICTION

PETITION NO. OF 19 .

Petition for Succession Certificate

(Title as in the petition).

..... DECEASED.

..... PETITIONER.

SCHEDULE

Debts

Serial No.	Name of debtor	Amount of debt including interest on the date of application for certificate	Description and date of instrument, if any, by which the debt is secured
		Total Rs.	

Securities

Serial No.	Description			Market value of security on date of application for certificate
	Distinguishing number or letter of	Name, title or class of security	Amount or part value of security	
			Total Rs.	Rs.

PETITIONER.

TOP

Form No. 112

Petitioner's oath in the case of succession certificate. (Rule 377)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

TESTAMENTARY AND INTESTATE JURISDICTION

PETITION NO. OF 19 .

Petition for succession certificate in respect of certain debts and securities belonging to

(a) ..... Deceased.

(a) Insert name in full place of residence and occupation. If deceased was a bachelor or spinster that should stated.

..... PETITIONER.

I, ... swear in the name of God / solemnly affirm

that I will well and truly administer the debts and securities comprised in the succession certificate to be granted to me and that I will render a true account thereof to this Honourable Court within one year from the date of the grant to be made to me or within such further time as the said Court may from time to time appoint.

Sworn

Solemnly affirmed at.....

This ..... day of ..... 19 .

Before me,

Assistant, Master/Associate,

High Court, Bombay.

Advocate for .....

TOP

Form No. 113

Subpoena to bring in will, etc.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

TESTAMENTARY AND INTESTATE JURISDICTION

PETITION NO. OF 19 .

To

Whereas it appears by the affidavit of ..... dated the ..... day of ..... 19 and filed on the ..... day of ..... 19 on the testamentary and intestate side of this High Court that a certain original paper or script dated the ..... day of ..... 19 , being or purporting to be testamentary, to wit, the last will and testament of ..... deceased, is now in your possession, power or control.

Now this is to command you that, within 8 days after service hereof on you, inclusive of the day of such service, you do bring into and leave in the registry at the testamentary and intestate side of the said Court the said original paper or script now in your possession, power or control and this you shall in no wise omit under pain of the law and contempt thereof.

Witness ..... Chief Justice at Bombay aforesaid, this ..... day of ..... 19 .

Prothonotary and Senior Master.

Sealer

The ..... day of ..... 19.

Advocate for .....

TOP

Form No. 114

Citation to accept or refuse executorship.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

TESTAMENTARY AND INTESTATE JURISDICTION

MISC. PETITION NO. OF 19 .

In the matter of the will of .....

..... Deceased.

..... PETITIONER.

To

..... Executor of the will of the deceased abovenamed.

Whereas ..... died on the ..... day of ..... 19 having made his last will and testament of which he appointed you executor;

Take notice that you are hereby required to appear before the Judge hearing testamentary matters in Chambers on the ..... day of ..... 19 , at 11 O'clock in the forenoon and state whether you accept or refuse the executorship of the said will, and

Take further notice that in default of appearance you will be debarred from ever thereafter applying for probate of the said will and this Court may proceed to grant letters of administration to the property and credits of the said deceased to the petitioner abovenamed.

Witness ....., Chief Justice at Bombay aforesaid, this ..... day of ..... 19 .

Prothonotary and Senior Master.

Sealer

The ..... day of 19 .

Advocate for the petitioner.

TOP

Form No. 115

Citation to see proceedings.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

TESTAMENTARY AND INTESTATE JURISDICTION

PETITION NO. OF 19 .

Petition for Probate of the last will and testament of
letters of administration to the property
and credits of ..... Deceased.

..... PETITIONER.

To

If you claim to have any interest in the estate of the abovenamed deceased, you are hereby cited to come and see the proceedings before the grant or probate/letters of administration.

In case you intend to oppose the grant of probate/letters of administration, you should file in the office of the Prothonotary and Senior Master a caveat within 14 days from the service of this citation upon you.

Witness ....., Chief Justice at Bombay aforesaid, this ..... day of ..... 19 .

Prothonotary and Senior Master.

Sealer

The ..... day of ..... 19 .

Advocate for petitioner.

Note.—(1) If the judge has directed that the caveat should be filed within a shorter period, the fact should be specifically stated at the foot of the citation.

(2) If the citation is addressed to all persons generally and is published in newspapers suitable changes should be made in the form.

TOP

Form No. 116

Caveat. (Rule 401)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

TESTAMENTARY AND INTESTATE JURISDICTION

PETITION NO. OF 19 .

(Title as in the petition)

..... CAVEATOR.

To

The Prothonotary and Senior Master,

Sir,

Let nothing be done in the matter of the estate of the abovenamed ....., deceased, who died at ..... on or about the ..... day of ..... 19 , without due notice to the abovenamed caveator.

Dated this ..... day of ..... 19 , without due notice to the abovenamed caveator.

Dated this ..... day of .....19 .

Yours faithfully,

Advocate for the caveator.

TOP

Form No. 117

Notice of the filing of affidavit in support of caveat. (Rule 403)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

TESTAMENTARY AND INTESTATE JURISDICTION

PETITION NO. OF 19 .

SUIT NO. OF 19 .

Re. ..... Deceased.

..... PLAINTIFF.

versus

..... DEFENDANT.

To

(Advocate for the plaintiff.)

Sir.

Take notice that on the ..... day of ..... 19 an affidavit in support of the caveat was filed in my office in the above petition by ..... Advocate for the abovenamed defendant, and that the petition became a suit on that date and has been numbered as Suit No. ..... of 19 .

Dated this ..... day of ..... 19 .

Yours faithfully,

Prothonotary and Senior Master.

TOP

Form No. 118

Administration Bond. (Rule 420).

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

TESTAMENTARY AND INTESTATE JURISDICTION

PETITION NO. OF 19 .

Petition for Letters of Administration
to the property and credits of
(a) ..... Deceased.

..... PETITIONER

(a) Insert name in full, place of residence, and occupation. If the deceased was a bachelor or spinster, that should be stated.

Know all men by these presents that we, ... and ..... are held and firmly bound, jointly and severally, upto ..... Prothonotary and Senior Master of the High Court of Judicature at Bombay and his successor or successors in office and his or their assigns in the sum of Rs. ..... to be paid to the said ....., Prothonotary and Senior Master, and his successor or successors in office and his or their assigns, as the case may be, for which payment to be well and truly made we do bind ourselves and each and every one of us jointly and severally and our respective heirs, executors and administrators firmly by these presents, which are sealed hereunder with our seals.

Dated this ..... day of ..... 19 .

Now the condition of this obligation is such that if the abovementioned ....., administrator of the property and credits of ..... deceased, shall duly collect and get in the estate of the deceased, and shall on or before the ..... day of ..... 19 or within such further time as this Hon'ble Court may appoint, exhibit in this Hon'ble Court an inventory containing a full and true estimate of all the property and credits of the said deceased which have or shall come in the possession of the said administrator or which have or shall come to his knowledge or which have or shall come in the possession of any other person or persons on his behalf and shall well and truly administer according to law the said property and credits of the said deceased and shall, on or before the ..... day of ..... 19 or within such further time as this Hon'ble Court may appoint, exhibit in this Hon'ble Court a true account of the estate, showing the assets which have come to his hands and the manner in which they have been applied or disposed of and if the said account is examined and certified by this Hon'ble Court as representing a true, complete and just account of the administration of the estate of said deceased, then this obligation shall be void and of no effect, but otherwise the same shall remain in full force and effect.

Signed, sealed and delivered at Bombay.

by

in the presence of :

TOP

Form No. 119

Administration bond of a constituted attorney.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

TESTAMENTARY AND INTESTATE JURISDICTION

PETITION NO. OF 19

Petition for letters of administration (with a copy of an authenticated copy of the will annexed) to the property and credits of

(a) .....

..... Deceased.

..... PETITIONER

(a) Insert name in full, place of residence and occupation. If the deceased was a bachelor or spinster, that should be stated.

Know all men by these presents that we ..... and ..... are held and firmly bound, jointly and severally, upto ..... Prothonotary and Senior Master of the High Court of Judicature at Bombay, and his successor or successors in office and his or their assigns in the sum of Rs. ..... to be paid to the said ..... Prothonotary and Senior Master, and his successor or successors in office and his or their assigns, as the case may be, for which payment to be well and truly made we do bind ourselves and each and every one of us jointly and severally and our respective heirs, executors and administrators firmly by these presents, which are sealed hereunder with our seals.

Dated this ..... day of ..... 19 .

Now the condition of this obligation is such that if the abovementioned ..... constituted attorney of ..... and administrator of the property and credits of ..... deceased, shall duly collect and get in the estate of the deceased, and shall, on or before the ..... day of ..... 19 or within such further time as this Hon'ble Court may appoint, exhibit in this Hon'ble Court an inventory containing a full and true estimate of all the property and credits of the said deceased which have or shall come in the possession of the said administrator or which have or shall come to his knowledge or which have or shall come in the possession of the said administrator or which have or shall come to his knowledge or which have or shall come in the possession of any other person or persons on his behalf and shall well and truly administer according to law the said property and credits of the said deceased for the use and benefit of him the said ..... (name of the principal) and limited until he the said ..... (name of the principal) shall obtain probate of the will of the said deceased from this Hon'ble Court and shall, on or before the ..... day of ..... 19 or within such further time as this Hon'ble Court may appoint, exhibit in this Hon'ble Court a true account of the estate, showing the assets which have come to his hands and the manner in which they have been

TOP

applied or disposed of and if the said account is examined and certified by this Hon'ble Court as representing a true, complete and just account of the administration of the estate of the said deceased as granted to the said..... administrator, then this obligation shall be void and of no effect but otherwise the same shall remain in full force and effect.

Signed, sealed and delivered at Bombay,

by

in the presence of :

TOP

Form No. 120

Bond In the case of Succession Certificate. (Rule 421)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

TESTAMENTARY AND INTESTATE JURISDICTION

PETITION NO. OF 19 .

Petition for succession certificate
In respect of certain debts belonging
to (a) .... securities

..... Deceased.

..... PETITIONER

(a) Insert name in full, place of residence and occupation. If the deceased, was a bachelor or spinster that should be stated.

Know all men by these presents that we, ... and ..... are held and firmly bound, jointly and severally, upto ..... Prothonotary and Senior Master of the High Court of Judicature at Bombay, and his successor or successors in office and his or their assigns in the sum or Rs. ..... to be paid to the said ..... Prothonotary and Senior Master, and his successor or successors in office and his or their assigns, as the case may be, for which payment to be well and truly made we do bind ourselves and each and every one of us jointly and severally and our respective heirs, executors and administrators firmly by these presents, which are sealed hereunder with our seals.

Dated this ..... day of ..... 19 .

Now the condition of this obligation is such that if the abovementioned ....., holder of the succession certificate in respect of the debts and securities mentioned in the petition herein dated the ..... day of ..... 19 , and belonging to the estate of ..... deceased, shall well and truly recover the debts and securities and the interest or dividend thereon or negotiate or transfer the said securities and shall, within one year from the date of this grant or within such further time as this Honourable Court may appoint, exhibit in this Honourable Court a true account of his said dealings, showing the assets which have come to his hands and the manner in which they have been applied or disposed of and if the said account is examined and certified by this Honourable Court as representing a true, complete and just account of the administration of the estate of the said deceased as granted to the said ..... then this obligation shall be void and of no effect, but otherwise it shall remain in full force and effect

Signed, sealed and

delivered at Bombay

by

in the presence of :

TOP

Form No. 121

Probate. (Act XXXIX of 1925. Section 307)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

TESTAMENTARY AND INTESTATE JURISDICTION

PETITION NO, OF 19

(Title as in the petition)

(1) Subject to the provisions of sub-section (2), an executor or administrator has power to dispose of the' property of the deceased, vested in him under section 211, either wholly or in part, in such manner as he may think fit,

(2) If the deceased was a Hindu Muhamadan, Buddhist, Sikh or Jain, or an exempted person, the general power conferred by sub-section (1) shall be subject to the following restrictions and conditions, namely:—

(i) The power of an executor to dispose of immovable property so vested in him is subject to any restriction which may be imposed in this behalf by the Will appointing him, unless probate has been granted to him and the Court which granted the probate permits him by an order in writing, notwithstanding the restriction, to dispose of any immovable property specified in the order in a manner permitted by the order,

(ii) An administrator may not, without the previous permission of the Court by which the letters of administration were granted,—

(a) mortgage, charge or transfer by sale, gift, exchange or otherwise any immovable property for the time being vested in him under section 211, or

(b) lease any such property for a term exceeding five years,

(iii) A disposal of property by an executor or administrator in contravention of clause (i) or clause (ii), as the case may be, is voidable at the instance of any other person interested in the property,

N.B.- Annexed to the grant is a copy of the schedule of assets of the deceased as disclosed by the Petitioner in his petition.

Be it known that this day being the ..... day of ..... 19 the last will and testament (a copy whereof is hereunto annexed) of ..... deceased, is proved and registered before this Court and that the administration of the property and credits of the said deceased and in any way concerning his Will is granted to ..... the executor in the said Will named to have effect throughout the State of Maharashtra India he having undertaken to administer the same and to make a full and true inventory of the said property and credits and exhibit the same in this Court within six months from the date of this grant or within such further time as the Court may from time to time appoint,

TOP

and also to render to this Court a true account of the said property and credits within one year from the same date, or within such further time as the Court may from time to time appoint.

Witness ..... Chief Justice at Bombay aforesaid, this ..... day of ..... 19 .

By the Court,

Prothonotary and Senior Master.

Sealer

The ..... day of ..... 19 .

Advocate for Petitioner.

TOP

Form No. 122

Letters of Administration. (Act XXXIX of 1925, section 307)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

TESTAMENTARY AND INTESTATE JURISDICTION

PETITION NO. OF 19

(Title as in the petition)

(1) Subject to the provisions of sub-section (2), an executor or administrator has power to dispose of the property of the deceased, vested in him under section 211, either wholly or in part, in such manner as he may think fit.

(2) If the deceased was a Hindu, Muhammadan, Buddhist, Sikh, or Jain, or an exempted person, the general power conferred by sub-section (1) shall be subject to the following restrictions and conditions, namely :-

(i) The power of an executor to dispose of immovable property so vested of immovable property so vested in him is subject to any restriction which may be imposed in this behalf by the will appointing him, unless probate has been granted to him and the Court which granted the probate permits him by an order in writing, notwithstanding the restriction, to dispose of any immovable property specified in the order in a manner permitted by the order.

(ii) An Administrator may not, without the previous permission of the Court by which the letters of administration were granted,-

(a) mortgage, charge or transfer by sale, gift, exchange or otherwise any immovable property for the time being vested in him under section 211, or

(b) lease any such property for a term exceeding five years.

(iii) A disposal of property by an executor or administrator in contravention of clause (i) or clause (ii), as the case may be, is voidable at the instance of any other person interested in the property.

N.B.- Annexed to the grant is a copy of the schedule of assets of the deceased as disclosed by the petitioner in his petition.

Be it known that this day being the ..... day of, ... 19 Letters of Administration to the property and credits of ..... deceased are hereby granted to ..... to have effect throughout the State of Maharashtra India he having undertaken administer the same and to make a full and true inventory of the said property and credits and exhibit the same in this Court within six months from the date of this grant or within such further time as the Court may from time to time appoint, and also to render to this Court a true account of the said property and credits within one year from the same date or within such

TOP

further time as the Court may from time to time appoint.

Witness ..... Chief Justice at Bombay aforesaid, this ..... day of 19

By the Court,

Prothonotary and Senior Master.

Sealer

The ..... day of ..... 19 .

Advocate for the petitioner

TOP

Form No. 123

Letters of Administration with the will annexed. (Act XXXIX of 1925, section 307)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

TESTAMENTARY AND INTESTATE JURISDICTION

PETITION NO. OF 19 .

(Title as in the Petition)

(1) Subject to the provisions of sub-section (2), an executor or administrator has power to dispose of the property of the deceased, vested in him under section 211, either wholly or in part in such manner as he may think fit.

(2) If the deceased was a Hindu, Muhammadan. Buddhist, Sikh or Jain, or an exempted person, the general power conferred by sub-section (1) shall be subject to the following restrictions and conditions, namely :-

(i) The power of an executor to dispose of immovable property so vested in him is subject to any restriction which may be imposed in this behalf by the will appointing him, unless probate has been granted to him and Court which granted the probate permits him by an order in writing notwithstanding the restriction, to dispose of any immovable property specified in the order in a manner permitted by the order.

(ii) An administrator may not, without the previous permission of the Court by which the letters of administration were granted,-

(a) mortgage, charge or transfer by sale, gift, exchange or otherwise any immovable property for the time being vested in him under section 211, or

(b) lease any such property for a term exceeding five years.

(iii) A disposal of property by an executor or administrator in contravention of clause (i) or clause (ii) as the case may be, is voidable at the instance of any other person interested in the property.

N.B.- Annexed to the grant is a copy of the schedule of assets of the deceased as disclosed by the petitioner in his petition.

Be it known that this day being the ..... day of ..... 19 the last will and testament (a copy whereof is hereunto annexed) of ..... deceased is proved and registered before this Court and that letters of administration with the said will annexed hereto the property and credits of the said deceased are hereby granted to ..... to have effect throughout the State of Maharashtra he having undertaken to administer the same and to India make a full and true inventory of the said property and credits and exhibit the same

TOP

in this Court within six months from the date of this grant or within such further time as the Court may from time to time appoint, and also to render to this Court a true account of the said property and credits within one year from the same date or within such further time as the Court may from time to time appoint.

Witness ..... Chief Justice at Bombay aforesaid, this ..... day of ..... 19 .

By the Court,

Prothonotary and Senior Master.

Sealer

The ..... day of ..... 19 .

Advocate for the Petitioner.

TOP

Form No. 124

Succession Certificate.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

TESTAMENTARY AND INTESTATE JURISDICTION

PETITION No. OF 19 .

(Title as in the Petition)

To

A. B.

Whereas you applied on the ..... day of ..... 19 for a certificate under Part X of the Indian Succession Act, 1925, in respect of the following debts and securities, namely:-

Debts

Serial No.	Name of debtor	Amount of debt including interest on the date of application for certificate	Description and date of instrument, if any, by which the debt is secured

Securities

Serial No.	Description			Market value of security on date of application for certificate
	Distinguishing number or letter or security	Name, title or class of security	Amount or par value of security	
			Total Rs.	Rs.

This certificate is accordingly granted to you and empowers you to collect those debts and to receive interest and dividends on and to negotiate or transfer those securities.

Witness ..... Chief Justice at Bombay aforesaid, this ..... day of ..... 19 .

By the Court,
Prothonotary and Senior Master.

Sealer

The ..... day of ..... 19 .

Advocate for .....

TOP

Form No. 125

Extension Certificate.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

TESTAMENTARY AND INTESTATE JURISDICTION

PETITION NO. OF 19 .

(Title as in the Petition)

On the application of A.B. ..... made to me on the ..... day of ..... 19 I hereby extend this certificate to the following debts and securities namely:-

Debts

Serial No.	Name of debtor	Amount of debt including interest on the date of application for certificate	Description and date of instrument, if any, by which the debt is secured

Securities

Serial No.	Description			Market value of security on date of application for certificate
	Distinguishing number or letter or security	Name, title or class of security	Amount or par value of security	

This extension empowers A. B. to collect those debts and to receive interest, dividends on and to negotiate or transfer those securities.

Witness ..... Chief Justice at Bombay aforesaid, this ..... day of ..... 19 .

By the Court,
Prothonotary and senior Master.

Sealer

The ..... day of ..... 19 .

Advocate for .....

TOP

Form No. 126

Succession Certificate to the guardian of a minor

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

TESTAMENTARY AND INTESTATE JURISDICTION

PETITION NO. OF 19 .

(Title as in the petition)

To

A.B.C. (The name, nationality, occupation and residence of the guardian) for the use and benefit of (name etc., of the minor).

Whereas you applied on the ..... day of ..... 19 for a certificate under Part X of the Indian Succession Act 1925, for the use and benefit of (name, etc.; of the minor) in respect of the following debts namely :-

securities

Debts

Serial No.	Name of debtor	Amount of debt including interest on the date of application for certificate	Description and date of instrument, if any, by which the debt is secured

Securities

Serial No.	Description			Market value of security on date of application for certificate
	Distinguishing number or letter or security	Name, title or class of security	Amount or par value of security	

This certificate is accordingly granted to you and empowers you to collect those debts and to receive interest and dividends on and to negotiate or transfer those securities.

Witness ..... Chief Justice at Bombay aforesaid, this ..... day of ..... 19 .

By the Court,
Prothonotary and Senior Master.

Sealer

The ..... day of ..... 19 .

Advocate for .....

TOP

Form No. 127

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

TESTAMENTARY AND INTESTATE JURISDICTION

MISC. PETITION NO. OF 19 .

CORAM :

Date :

In the matter of the Administrators-General Act, 1963, and

In the matter of the property and credits of ..... Deceased.

..... PETITIONER.

Upon reading the petition dated the ..... day of ..... 19 of the petitioner abovenamed and upon hearing ..... Advocate for the petitioner and this Court being satisfied that there is imminent danger of misappropriation, deterioration or waste of the property of the abovenamed deceased, doth under section 10 of the Administrators- General Act, 1963, direct the Administrator General of Bombay to collect and take possession of the assets of the said deceased situate within the State of Maharashtra and to hold, deposit, realise, sell or invest the same according to the provisions of the said Act and this Court doth further order that the costs of the petitioner of and incidental to the petition and of this order be paid out of the estate of the said deceased.

Witness ..... Chief Justice at Bombay aforesaid, this ..... day of ..... 19 .

By the Court,

Prothonotary and Senior Master.

Sealer

The ..... day of ..... 19 .

Order drawn on the Application of

Advocate for .....

TOP

Form No. 128

Letters of Administration granted to the Administrator General.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

TESTAMENTARY AND INTESTATE JURISDICTION

PETITION NO. OF 19 .

(Title as in the Petition)

Be it known that this day being the ..... day of ..... 19 letters of administration to the property and credits of ..... deceased are hereby granted to ..... The Administrator General of Maharashtra and his successors in office to have effect throughout the State of Maharashtra, he having undertaken to administer the same and to make a full and true inventory of the said property and credits and exhibit the same in this Court within six months from the date of this grant or within such further time as the Court may from time to time appoint and also to render to this Court a true account of the said property and credits within one year from the same date or within such further time as the Court may form time to time appoint.

Witness ..... Chief Justice at Bombay aforesaid, this ..... day of ..... 19 .

By the Court,

Prothonotary and Senior Master.

Sealer

The ..... day of ..... 19 .

Administrator General in person.

TOP

Form No. 129

Letters of Administration with the will annexed, granted to the Administrator General

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

TESTAMENTARY AND INTESTATE JURISDICTION

PETITION NO. OF 19 .

(Title as in the Petition)

Be it known that this day being the ..... day of ..... 19 the last will and testament (a copy whereof is hereunto annexed) of ..... deceased, is proved and registered before this Court and that letters of administration with the said will annexed to the property and credits of the said deceased are hereby granted to ..... Administrator General of Maharashtra and his successors in office to have effect throughout the State of Maharashtra, he having undertaken to administer the same and to make a full and true inventory of the said property and credits and exhibit the same in this Court within six months from the date of this grant or within such further time as the Court may from time to time appoint and also to render to this Court a true account of the said property and credits within one year from the same date or within such further time as the Court may from time to time appoint.

Witness ..... Chief Justice at Bombay aforesaid, this ..... day of ..... 19 .

By the Court,

Prothonotary and Senior Master.

Sealer

The ..... day of ..... 19 .

Administrator General in Person.

TOP

Form No. 130

Certificate that no application has been made for probate or letters of Administration.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

TESTAMENTARY AND INTESTATE JURISDICTION

Re : ..... DECEASED

I, ... Prothonotary and Senior Master of the High Court of Judicature at Bombay, do hereby certify that I have caused search to be made amongst the records of my office from the ..... day of ..... 19 upto this day, and I find that no one has applied for or obtained probate of the will of ..... deceased or letters of administration to his property and credits.

Dated this ..... day of ..... 19 .

Prothonotary and Senior Master.

Form No. 131

Citation to file inventory and account.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
PETITION NO. OF 19 .

(Title as in the Petition)

..... Executor/Administrator
Succession Certificate Holder

(only in the case of failure to file accounts).

Take notice that you are hereby required to appear before the Judge hearing testamentary matters in Chambers on the ..... day of ..... 19 at 11 O'clock in the forenoon to show cause why you have not exhibited in this Court an inventory containing a full and true estimate of all the property and credits of the abovenamed deceased and why you have not exhibited in this Court an account of the estate of the said deceased showing the assets which have come to your hands and the manner in which they have been applied or disposed of and,

Take further notice that in default of appearance, the Court may pass such order against you as it may deem fit;

Witness ..... Chief Justice at Bombay aforesaid, this ..... day of 19

By the Court,

Prothonotary and Senior Master.

Sealer

The ..... day of ..... 19 .

Advocate for .....

TOP

Form No. 132

Certificate of filing inventory and account.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

TESTAMENTARY AND INTESTATE JURISDICTION

PETITION NO. OF 19 .

(Title as in the Petition)

I, ..., Prothonotary and Senior Master of the High Court of Judicature at Bombay, do hereby certify that on the ..... day of ..... 19 and inventory, and account of the property and credits of ....., deceased, were filed in my office by ..... Advocate for ..... administrator of the property and credits of the said deceased.

Dated this ..... day of ..... 19 .

Prothonotary and Senior Master.

Note:-It is not to be understood by the above certificate that the said account has been passed.

Prothonotary and Senior Master.

Form No. 133

Certificate of amended value of the estate, to be forwarded to the Superintendent of Stamps.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

TESTAMENTARY AND INTESTATE JURISDICTION

PETITION NO. OF 19 .

(Title as in the Petition)

I, ..., Prothonotary and Senior Master of the High Court of Judicature at Bombay, do hereby certify that the property and credits of the abovenamed deceased originally valued at Rupees ..... by the executor/administrator of the said deceased have now been valued at Rupees ..... and that full security has been given for the increased amount.

Dated this ..... day of 19

Prothonotary and Senior Master

TOP

Form No. 134

Notice under sections 360 and 367 of the Indian Succession Act. (Rule 433)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

TESTAMENTARY AND INTESTATE JURISDICTION

PETITION NO. OF 19 .

(Title as in the Petition)

Notice is hereby given that all persons having claims against the estate of the abovenamed ..... deceased, who died at ..... on or about the ..... day of ..... 19 and probate of whose Will [or letters of administration (with a copy of the Will annexed) of whose estate] having effect throughout the India was (or were) granted on the ....day of State of Maharashtra ..... 19 to ....., are hereby required to send in their claims to the said executor at the office of ....his Advocate, within one calendar month administrator from the date of hereof, on the expiry of which time the said executor will hand over administrator the assets to the persons entitled hereto having regard only to the claims of which he shall then have notice.

Dated this ..... day of ..... 19 .

Advocate for

Executor/Administrator.

Address

TOP

Form No. 135

Oaths or affirmations.

FORMS OF OATHS OR AFFIRMATIONS

PRESCRIBED BY THE OATHS ACT, 1969 ARE REPRODUCED HEREUNDER

Witnesses:-

I do swear in the name of God that what I shall state shall be truth, the whole
solemnly affir

truth and nothing but the truth.

Jurors:-

I do swear in the name of God that I will well and truly try and true deliverance
solemnly affir

make between the State and the prisoner(s) at the bar, whom I shall have in charge and a true verdict give according to the evidence.

Interpreters:-

I do swear in the name of God that I will well and truly interpret and explain all
solemnly affir

questions put to and evidence given by witnesses and translate correctly and accurately all documents given to me for translation.

Affidavits:-

I do swear in the name of God that this my name and signature (or mark) and
solemnly affir

that the contents of this my affidavit are true.

TOP

[1]Form No. 136

Notice under section 21 of the Company Secretaries Act, 1980 (Rule 1058)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

REFERENCE NO. OF 19

(Under the Company Secretaries Act, 1980)

In the matter of Company Secretaries Act, 1980 (Act 56 of 1980);

And

In the matter of ..... a Member of the Institute of Company Secretaries of India.

To,

(1) .....Member of the Institute of Company Secretaries of India;

(2) The Secretary of the Council of the Institute of Company Secretaries of India;

(3) The Secretary to the Ministry of Finance, Union Government, New Delhi.

WHEREAS the Council of the Institute of Company Secretaries of India has filed in this Court its findings dated the ..... day of ..... 19.. in the above Reference;

NOW TAKE NOTICE that the Reference will be placed for hearing before a Division Bench of this Court on the ..... day of ..... 19 . at 11 O'Clock in the forenoon, when you are required to appear either in person or by an Advocate entitled to practise in this Court;

AND TAKE FURTHER NOTICE that in default of your appearance either in person or by an Advocate, the Reference will be heard and determined in your absence.

Dated this ..... day of ,..... 19 .

Prothonotary and Senior Master

SEALER

The ..... day of ..... 19 .

Advocate for .....

1 . Form 136 to 138 were inserted by G. N. of G/Amend/7984, pub. In M.G.G. Pt. IV-C, dated 12-12-1996, p. 521-526

TOP

Form No. 137

Notice under section 30 of the Company Secretaries Act, 1980 (Rule 1058)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPEAL NO. OF 19

(Under the Company Secretaries Act, 1980)

In the matter of the Company Secretaries Act, 1980 (Act No. 56 of 1980)

AND

In the matter of ....., a Member of the Institute of Company Secretaries of India.

To,

The Secretary of the Council of the Institute
of Company Secretaries of India.

WHEREAS the Appellant abovenamed has filed in this Court an Appeal against the Order dated the ..... day of ..... 19 . of the Council of the Institute of Company Secretaries of India.

You are required to forward to the Prothonotary and Senior Master, within two weeks from the date of service of this Notice upon you, the findings of the Council and all the other documents mentioned in Rule 1057(1) of the Rules of the High Court (Original Side) and the extra copies referred to in sub-rule (3) of the said Rule; and

NOW TAKE NOTICE that the Appeal will be placed for hearing before a Division Bench of this Court on the ..... day of ..... 19 . at 11 O'Clock in the forenoon, when you are required to appear either in person or by an Advocate entitled to practice in this Court.

AND TAKE FURTHER NOTICE that in default of your appearance either in person or by an Advocate, the Appeal will be heard and determined in your absence.

Dated this ..... day of ..... 19 .

Prothonotary and Senior Master

SEALER

The ..... day of ..... 19 .

Advocate for .....

TOP

Form No. 138

Notice under section 30 of the Company Secretaries act, 1980 (Rule 1058)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

REVISION APPLICATION NO. OF 19

Under the Company Secretaries Act, 1980)

In the matter of Company Secretaries Act, 1980 (Act 56 of 1980);

And

In the matter of ..... a Member of the Institute of Company Secretaries of India.

To,

(1) .....Member of the Institute of Company Secretaries of India;

(2) The Secretary of the Council of the Institute of Company Secretaries of India;

WHEREAS the Applicant abovenamed has filed in this Court a Revision Application against the Order dated ..... day of ..... 19 . of the Council of the Institute of Company Secretaries of India;

AND WHEREAS you are hereby required to forward to the Prothonotary and Senior Master, within two weeks from the date of service of this Notice upon you, the finding of the Council and all other documents mentioned in Rule 1057(1) of the Rules of the High Court (Original Side) and the extra copies referred to in sub-rule (3) of the said Rules; and

NOW TAKE NOTICE that the Revision Application will be placed for hearing before a Division Bench of this Court on the ..... day of ..... 19 . at 11 O'Clock in the forenoon, when you are required to appear either in person or by an Advocate entitled to practice in this Court.

AND TAKE FURTHER NOTICE that in default of your appearance either in person or by an Advocate, the Appeal will be heard and determined in your absence.

Dated this ..... day of ..... 19 .

Prothonotary and Senior Master

SEALER

The ..... day of ..... 19 .

Advocate for .....

TOP

ADMIRALTY FORM NO. 139

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ADMIRALTY & VICE-ADMIRALTY JURISDICTION
CAVEAT APPLICATION NO. _____OF 20_____

_____ **..... Caveator**

Versus

Any person / party seeking arrest of the vessel_____ **.....Defendant**

The Registrar General,
High Court,
Bombay.

CAVEAT AGAINST ARREST

WE, _____, the _____ (state interest in vessel) of the

Vessel _____hereby request that a Caveat be entered in the Caveat Warrant Book

against the arrest of the vessel _____and we hereby undertake to enter appearance in the event of any action that may be commenced in the High Court of Judicature at Bombay against the vessel _____ AND FURTHER UNDERTAKE, within three days after service of the Plaint, to give security therein and/or deposit such sum not exceeding Rs. _____(Rupees _____ only) AND WE CONSENT THAT all notices, pleadings and other documents in such action may be left at the office of our Advocate _____ at the following address :

_____.

Tel : _____

Email : _____

Mumbai dated this _____ day of _____ 20 _____

For

_____

Signature :

Name :

Designation :

_____

Advocate, High Court

TOP

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ADMIRALTY AND VICE ADMIRALTY JURISDICTION

ADMIRALTY SUIT NO. OF 20_____

FULL TITLE

Registrar General / Admiralty
Registrar's Certificate

At the request of Mr. _____. Advocate for the plaintiff abovenamed, I DO HEREBY CERTIFY that search has been made of the Caveat Warrant Book against arrest in the Admiralty Registry for the period from _____ to _____ AND I DO HEREBY FURTHER CERTIFY that no Caveat has been filed against the issue of a Warrant of Arrest of the abovenamed Defendant vessel _____ during the aforesaid period.

Dated this _____ day of _____ 20_____

ADMIRALTY REGISTRAR

Sealer
this _____ day of _____20 _____

TOP

ADMIRALTY FORM NO. 140

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ADMIRALTY AND VICE ADMIRALTY JURISDICTION

ADMIRALTY SUIT NO. OF 20_____

FULL TITLE

To,
The Registrar General,
High Court,
Bombay

Sir,

UNDERTAKING

We, _____, the Plaintiff above named through our POA Holder / Authorized Signatory _____ (Full name), do hereby give an undertaking to this Hon'ble Court to pay such sums by way of damages as this Hon'ble Court may award as compensation in the event of the Defendant and / or any affected party sustaining prejudice pursuant to the order made by this Hon'ble Court for arrest of _____.

AND We FURTHER COVENANT AND DECLARE that this undertaking shall remain valid and in force notwithstanding any order permitting the suit to be withdrawn.

Dated this _____ day of _____.

For _____

Before me,

TOP

ADMIRALTY FORM NO. 141

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ADMIRALTY AND VICE ADMIRALTY JURISDICTION

ADMIRALTY SUIT NO._____OF 20____

FULL TITLE

Coram:_____J.
Date :_____

UPON READING the plaint herein declared on the _____ and the precipe dated _____ for the issue of a warrant of arrest of the Defendant vessel _____ filed by the Advocate for the Plaintiff and the Affidavit of the Plaintiff abovenamed solemnly affirmed on the ____ day of ____ AND UPON HEARING _____. Advocate for the Plaintiff AND UPON THE PLAINTIFF giving an undertaking in writing to the Admiralty Registrar to pay such sums by way of damages as this Hon'ble Court may award as compensation in the event of the Defendant and / or any other affected party sustaining prejudice by this Order, I DO ORDER that the Admiralty Registrar of this Hon'ble Court DO ISSUE a Warrant for the arrest of the Defendant Vessel _____ along with her hull, engines, gears, tackle, machinery, bunkers, apparel, plant, furniture, fixtures, equipments and all appurtenances at present lying at the port of _____ and that the said Warrant of Arrest be executed at any time of the day and / or night or on Sundays and holidays AND I DO FURTHER ORDER that the sheriff of Mumbai do effect the arrest, seizure or detention of the vessel _____ at the port of _____ or such other place wherever the vessel may be within the territorial waters of India and that the Sheriff of Mumbai or the Sheriff's Bailiff do proceed to the port of _____or such other place as may be necessary to effect the arrest, seizure and detention of the Defendant vessel _____along with her hull, engines, gears, tackle, machinery, bunkers, apparel, plant, furniture, fixtures, equipment and all appurtenances AND I DO FURTHER ORDER THAT in the event of the Defendant depositing in this Hon'ble Court a sum of ____ (_____) equivalent to Rs. _____ (Rupees _____ only) towards the satisfaction of the Plaintiff's claim in the suit or furnishing security in the said sum of _____ equivalent to Rs. _____ (Rupees _____ only) towards the satisfaction of the Plaintiff's claim in the suit along with interest at _____ per annum from the date of the institution of the Suit till payment and / or realization to the satisfaction of the Admiralty Registrar of this Hon'ble Court, the said Warrant of Arrest shall not be executed against the vessel _____.

ADMIRALTY JUDGE

_____
Advocate

TOP

ADMIRALTY FORM NO. 142

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ADMIRALTY AND VICE ADMIRALTY JURISDICTION

ADMIRALTY SUIT NO. OF 20____

FULL TITLE

Warrant of Arrest

To,
THE SHERIFF OF MUMBAI
MUMBAI,

GREETINGS

WHEREAS the Plaintiff has instituted a suit against the Defendant in this Hon'ble Court to recover a sum of _____(Rupees _____) payable by the Defendant to the Plaintiff with ___% (_____ percent) interest per annum thereon from the date of the suit till payment.

AND WHEREAS by an order made on the ____day of _____by the Hon'ble Shri Justice _____ His Lordship has, *inter alia,* ordered that a Warrant for the arrest of the Defendant vessel _____be issued.

THIS IS TO COMMAND YOU to forthwith arrest the said vessel _____ along with her hull, engines, gears, tackle, machinery, bunkers, apparel, plant, furniture, fixtures, equipment and all appurtenances at present lying at the port of _____ at any time of the day and / or by night or on Sundays and holidays or any other place where she may be within the territorial waters of India and to keep the said vessel _____ under arrest until you have received further orders from this Hon'ble Court.

AND THIS IS TO FURTHER COMMAND you that either you or the Deputy Sheriff or your Bailiff do proceed to the port of _____, or such other place, wherever she may be, within the territorial waters of India to effect the arrest, seizure or detention of the Defendant vessel _____;

AND THIS IS TO FURTHER COMMAND YOU that in the event the Defendant above-named depositing in this Hon'ble Court a sum of _____ (_____) equivalent to Rs. _____ (Rupees _____ only) towards the satisfaction of the Plaintiffs claim in the suit or furnishing security in the said sum of _____ (_____) equivalent to Rs. _____ (Rupees _____ only) together with ___% (____percent) interest per annum thereon from the date of the suit till payment to the satisfaction of the Admiralty Registrar of this Hon'ble Court as security towards the satisfaction of the Plaintiff's claim in the suit this Warrant of Arrest shall not be executed against the said Defendant vessel ____.

WITNESS SHRI _____, the Chief Justice at Bombay aforesaid this ____ day of ____ 20 ____.

TOP

ADMIRALTY REGISTRAR

Sealer
This _____ day of _____ 20 ___

_____,
Advocate

TOP

ADMIRALTY FORM NO. 143

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ADMIRALTY AND VICE ADMIRALTY JURISDICTION

ADMIRALTY SUIT NO. OF 20____

_____ ..... Plaintiff

Versus

_____ ..... Defendant

And

_____ ..... Caveator

The Registrar General,
High Court,
Bombay

Dear Sir,

CAVEAT AGAINST RELEASE

We, the Caveator above named, do hereby request that a Caveat may be lodged/ entered in the "Caveat Release Book" against the release of the Defendant Vessel _____now lying under arrest by an order of this Hon'ble Court at the port of _____.

The Caveator has a claim of _____ (amount) against the owners of the Defendant vessel in respect of _____(state nature of claim). The owners have failed and neglected to pay the claim of the Caveators for which the Caveator has a maritime claim and a right in rem against the Defendant vessel _____.

The Caveator's address for service is that of its Advocate, _____ which is as under :

_____
_____
Email:

Dated this _____ day of _____20 ___

For _____
Caveator

_____,
Advocate for Caveator

TOP

ADMIRALTY FORM NO. 144

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ADMIRALTY AND VICE ADMIRALTY JURISDICTION

ADMIRALTY SUIT NO. OF 20____

FULL TITLE

Instrument of Release

To,
THE SHERIFF OF MUMBAI
MUMBAI.

GREETINGS

WHEREAS the Plaintiff has instituted a suit against the Defendant in this Hon'ble Court to recover a sum of _____ (Rupees _____) together with _____% (____percent) interest per annum thereon from the date of the suit till payment.

AND WHEREAS by an Order dated _____ passed by the Hon'ble Shri Justice ____, *Inter alia,* ordered that the Defendant vessel _____ be arrested.

AND WHEREAS pursuant to the aforesaid order dated _____, a Warrant of Arrest dated _____ had been issued by this Hon'ble Court vide which THIS HON'BLE COURT DID COMMAND YOU to arrest the vessel, _____, along with her hull, engines, gears, tackle, machinery, bunkers, apparel, plant, furniture, fixtures, equipment and all appurtenances at present lying at the port of _____, and keep her under arrest until you receive further orders from this Hon'ble Court.

AND WHEREAS by an Order made on _____, the Hon'ble Shri _____, the Admiralty Judge, has interalia, ordered the vessel _____ to be released forthwith;

AND WHEREAS there are no pending Caveats against the Release of the vessel _____;

NOW THIS IS TO COMMAND YOU to forthwith release the vessel _____along with her hull, engines, gears, tackle, machinery, bunkers, apparel, plant, furniture, fixtures, equipment and all appurtenances at present lying at the port of _____, and permit her to sail out, on payment of your costs, charges and expenses incurred in attending to the care and custody of the vessel whilst under arrest, if any.

WITNESS SHRI _____, the Chief justice at Bombay aforesaid this _____ day of _____20 _____.

TOP

ADMIRALTY REGISTRAR

Sealer
this _____day of _____20 ____

_____,
Advocate for Plaintiff

TOP

[1][TABLES OF FEES

TABLES OF FEES TO BE CHARGED BY OFFICERS

TABLES OF FEES PAYABLE TO THE PROTHONOTARY AND SENIOR MASTER

Fees for or on-		Rs. P.
1.	Every search in his office each hour or part of an hour.	5.00
2.	Every oath administered.	5.00
3.	Attending to administer oath, within a distance of 8 Kms from the Court House.	20.00
4.	Attending to administer oath, within a distance of 8 Kms. From the Court House on the application by an indigent person	1.00
5.	Fee for the same to be paid to the Assistant Master or Associate in cash when attending out of Office hours. (per hour or part thereof).	30.00
6.	Attending to administer oath beyond a distance of 8 Kms. But within a distance of 16 Kms. from the Court House.	25.00
7.	Attending to administer oath beyond a distance of 8 Kms. but within a distance of 16 Kms. from the Court House on the application by an indigent person.	1.00
8.	Fees for the same to be paid to the Assistant Master or Associate in cash when attending out of office hours (per hour or part thereof).	30.00
9.	Attending to administer oath beyond a distance of 16 Kms from the Court House.	25.00
10.	Attending to administer oath beyond a distance of 16 Kms. from the Court house on the application by indigent person.	1.00
11.	Fees for the same to be paid to the Assistant Master or Associate in cash when attending out of office hours. (per hour or part thereof)	35.00
12.	Fees for supplying copy of Notes of Evidence by Shorthand writer when only one applies for a copy, per folio of 90 words.	1.00

1. Table of fee substituted by G. N. of 20-09-1999 (pub. In 1999 M.G. G. Pt. IV.-, p. 762-770

TOP

13.	Fees for supplying copies of Notes of Evidence by Shorthand writer. When more than one party apply, shall be 1.50 paise per folio of 90 words which shall be divided amongst and charged equally to the parties to whom the copies are supplied.	1.50

Note :- Out of the fees recovered under entries Nos. 9 and 10 one half to be paid to the shorthand writer, the balance being credited to government.

TABLE OF FEES PAYABLE TO THE REGISTRAR, PRASI CHIEF MATRIMONIAL COURT

(1)	Petition Decree of Divorce	37.50
(2)	Vakalatnama	5.00
(3)	Every Exhibit	0.50

Note.- It would thus suffice, if on an average fee of Rs. 50 ad valorem is paid on every petition filed under this Special Act exclusive of the fees required to be paid on Vakilpatra and/or for affirmation. It should simultaneously be kept in consideration that in the event of advolrem fee as that of writ petition is considered on the present context, the additional requirement to pay Court-fee on Exhibits, etc. as stated hereinabove can be dispensed with.

TABLE OF FEES PAYABLE TO THE COMMISSIONER FOR TAKING ACCOUNTS AND LOCAL INVESTIGATOR.

The following Table of Fees shall apply to proceeding before the Commissioner for Taking Accounts in Suits and matters instituted in the High Court prior to 1st April 1954, except in respect of items which fall under Schedules I and II to the Bombay Court Fees Act, 1959.

The said Tables of fees shall not apply from 1st January 1964 to—

TOP

(a) Further proceedings in matters pending before the Commissioner on 1st January 1964, provided that such matters are in respect of suits and matters instituted in the High Court on or after 1st April 1954, and

(b) proceeding filed in the Commissioner's Office on or after 1st January 1964, in suits and matters instituted in the High Court On or after 1st April 1964:

Provided, however, that the said Tables of Fees shall apply in the following cases except in respect of items which fall under Schedules I and II to the Bombay Court Fees Act, 1959:-

(1) References for taking accounts in Partnership Suits.
(2) References for taking accounts in Administration Suits.
(3) References for taking accounts in Partition Suits.
(4) References for taking accounts of the management of properties where the mortgagee is in possession.
(5) References for sale of properties pursuant to decrees and Orders of the Court.

Fees for or on		**Rs. P.**
1.	Every summons or warrant issued by him to parties in a cause, witness or other persons.	5.00
2.	For initiating proceedings in the Commissioner's Office except proceedings for passing accounts referred to in Rules 357, 361, 512, 513, 514, 515, 594 and 598 of the High Court Rules except any other accounts which have to be vouched in the Commissioner's office for which a vouching fee is payable.	25.00
3.	Every oath administered.	5.00
4.	Every affidavit sworn.	5.00
5.	Every deposition taken before him	5.00
6.	Every receipt for books, deeds or papers.	5.00
7.	Signing and certifying every exhibit proved before him.	5.00

TOP

8.	Vouching accounts for each half hour or part thereof.	5.00
9.	Allowing and signing any accounts or other matters requiring his signature.	5.00
10.	Every document filed.	5.00
11.	Every search in his office for each hour or part of an hour.	5.00
12.	Allowing and signing every necessary advertisement for creditors.	7.00
13.	Attendance in matter referred to him when one party appears and Counsel is not engaged, for each half hour or part thereof.	10.00
14.	Attendance when two or more parties appear and Counsel is not engaged by any party, each party for each half hour or part thereof.	7.00
15.	Attendance when two or more parties appear by Counsel, each party engaging Counsel, for each half hour or part thereof.	10.00
16.	Attendance when one or more parties appear by counsel each party not engaging Counsel, for each half hour or part thereof.	7.00
17.	Attendance in Court with papers.	10.00
18.	Attendance on sales.	50.00
19.	Entering each bidding.	2.00
20.	Attendance out of office within a distance of 8 Kms from the Court House to administer oaths, to take examinations or transact other business incidental to this office (not exceeding one hour).	20.00
21.	Every other hour or part thereof.	10.00
22.	The like beyond a distance of 8 Kms from the Court (within a distance of 16 Kms) (not exceeding one hour).	25.00
23.	Every other hour or part thereof.	10.00
24.	The like beyond a distance of 16 Kms from the Court House (not exceeding one hour).	25.00
25.	Every other hour or part thereof.	15.00
26.	If beyond three miles in addition to fees a reasonable allowance for expenses and carriage hire (for each person)	100.00
27.	Attendance or warrant to inspect books, each party.	7.00
28.	Each certificate on matters referred to him by the Court not exceeding ten folios of 90 words and seven figures to each word.	15.00

TOP

29.	Each report on matters referred to him by the Court not exceeding ten folios of 90 words and seven figures to each word.	20.00
30.	The like for each folio exceeding ten, per folio.	2.00
31.	Taking custody of proceeds of sale of movable or immovable property, except in so far as the same are covered by a set off allowed by a decree or order.	1%
32.	For execution by the Commissioner of any Conveyance of immovable property :	
	(a) For each party on whose behalf he execute under judge's order	20.00
	(b) Subject to a maximum fee of for any one document.	100.00

TABLE OF FEES PAYABLE TO THE ACCOUNTS OFFICER

Fees for or on --		Rs. P.
(1)	On interest realized or accrued in respect of moneys of securities etc. belonging to Minors, Widows, Trusts and other Beneficiaries etc.	3%
(2)	For filing certified copy of Court's Order directing deposit to be made.	5.00
(3)	For filing certified copy of the Court's order directing payment to be made.	5.00
(4)	For search of inspection for each separate case for, each hour or part of an hour.	3.00
(5)	For issuing certificate of balance in a cause.	7.00
(6)	For attending in Court or in Chamber with records	5.00
(7)	For issuing of Duplicate Income-tax Deduction Certificate.	4.00

TABLE OF FEES PAYABLE TO TRANSLATOR AND INTERPRETER

The following Table of Fees shall apply except in respect of items which fall under Schedule I and II to the Bombay Court Fees Act, 1959 :-

		Rs. P
1	For every translation of a document not falling under item 4, per folio of 90 words	8.00
2	For every translation of a document not falling under item 4, made by a	

TOP

	Special Translator per folio of 90 words :-	
	(a) to be paid in cash to Special Translator.	7.50
	(b) to be credited to Government.	4.00
3	For every translation of a document for which Special readers are necessary, per folio of 90 words.	10.00
4	For every translation of a document in Arabic, Sanskrit, Latin and any other difficult language which the Prothonotary and Senior Master may sanction, per folio of 90 words :-	
	(a) to be paid in cash to such translators.	15.00
	(b) to be credited to Government.	4.00
5	For every translation urgently required and when sanctioned by the Prothonotary and Senior Master.	Double fee
6	For comparing copies of vernacular documents, etc. per folio of 90 words.	2.00
7	For comparing copies of vernacular documents, etc. by a Special Translator, per folio of 90 words :-	
	(a) to be paid in cash to Special Translator.	1.50
	(b) to be credited to Government.	0.50
8	For preparing copies of vernacular documents etc. per folio of 90 words.	2.00
9	For preparing copies of vernacular documents etc., by Special Translator per folio of 90 words :-	
	(a) to be paid in cash to Special Translator.	2.00
	(b) to be credited to Government.	0.50
10	For interpreting *viva voce* any plaint, statement, affidavit or other document requiring to be interpreted, per folio of 90 words.	
11	For interpreting *viva voce* any plaint, statement, affidavit or other document requiring to be interpreted by a Special Interpreter per folio of 90 words :-	
	(a) to be paid in cash to Special Interpreter.	2.00
	(b) to be credited to Government.	0.50
12	For interpreting evidence in Court, at *de-bene-esse* or other examinations, held either in the Offices of the Court or outside the Court, per witness.	4.00
13	For interpreting evidence by a Special Interpreter in Court, at *de-bene-esse* or other examinations held either in the offices of the Court or outside the Court house. Per witness per each hour or part of an hour :-	

TOP

	(a) to be paid in cash to Special Interpreter.	3.00
	(b) to be credited to Government.	1.00
14	For attendance of Official Interpreter or Special Interpreter to interpret a document out of office hours by request of parties at their private houses within a distance of 8 Kms from the Court House to be paid to him in cash, per hour, exclusive of time taken for travelling to the place.	15.00
15	For same beyond a distance of 8 Kms but within a distance of 16 Kms from the Court House, per hour, exclusive of time taken travelling to the place.	20.00
16	For same beyond a distance of 16 Kms from the Court House, per hour, exclusive of time taken for travelling to the place.	25.00
17	For attendance of an Official Interpreter or Special Interpreter to Interpret evidence at *de-bene-esse* or other examinations, held out of office hours in the Court House or within a distance of 8 Kms from the Court House to be paid to him in cash, for each half hour or part thereof.	7.50
18	For same beyond a distance of 8 Kms but within a distance of 16 Kms from the Court House. For each half hour or part thereof.	10.00
19	For same beyond a distance of 16 Kms from the Court House, for each half hour or part thereof.	15.00

TABLE OF FEES PAYABLE TO THE SHERIFF OF BOMBAY

The following Table of Fees shall apply to suits and matters instituted on and after 1st day of April 1954 :-

		Rs. P.
1.	For serving each summons or notice :-	
	(a) to a single defendant or witness.	15.00
	(b) to every additional defendant or witness if the processes be applied for at the same time	10.00
2.	For executing every warrant :-	
	(a) of arrest, in respect of every person to be arrested	30.00
	(b) of attachment, in respect of every such warrant.	
	(c) of sale in respect of every such warrant.	

TOP

3.	For serving every injunction, order or Rule and every process not otherwise provided for.	30.00
4.	For every proclamation under Order XVI, Rule 10(2), Order XXI, Rules 55, 66, 69(2) and 87 of the Code Civil of Procedure.	30.00
5.	Poundage on every debt levied by execution including an attachment before judgment or in the event of the claim being satisfied, compromised or settled upon the amount of such satisfaction, compromise or settlement.	1 %
6.	For every certificate of appointment of Special Bailiff	25.00
7.	For serving or executing any process on Sundays and close holidays.	30.00
8.	To the Deputy Sheriff for attending at a sale not held at his office.	50.00
9.	For every search.	10.00
10.	For the Crier at every Sheriff's sale, exclusive (where the sale is not at the sheriffs office) of the cost of conveyance if the same is not provided by the party requiring the sale.	15.00
11.	For every man absolutely required and left in possession of property attached.	The amount actually and reasonably paid per diem as wages and bhatta.
12.	For wages for every man required to be left in possession of the property attached.	The amount actually paid per diem as wages and a reasonable amount of conveyance
13.	For removal of movable property attached to the Sheriff's office or some other place when necessary.	Actual ex-penses

TOP

14.	For conveyance charges for serving summonses or executing other processes.	Such expenses as are reasonably incurred when conveyance is not provided by the person requiring such service

Note 1. – The poundage leviable under item 5 of the Table shall be calculated on multiples of Rs. 25 (i.e. a poundage fee of 25 paise should be levied for every Rs. 25 or part of Rs. 25)

2.- for processes required to be served or executed as emergent, the fee will be ordinary fee and half as much again.

3.- Where one individual is to be served in more than one capacity, e.g. personally and also as guardian of a minor or minors only one fee is to be charged.

4.- When a process is returned unserved and an application is again made for service thereof a half fee only shall be charged for every such occasion. This rule applies whatever may be the reason which prevented service (e.g. Whether the failure to serve was due to the fault of the party on whose behalf it was issued or not) and whether the identical paper is re-issued or a fresh paper.

5.- When the service is set aside in an inquiry under Order V, rule 19 of the Code of Civil Procedure, or when witnesses, etc., have to be summoned a second time in consequence of the Court not sitting or not taking up or not completing the hearing of the case on the date on which they were first summoned no further fee is leviable for re-service.

6.- If a warrant has already been issued to arrest a judgment debtor who has failed to pay the decretal amount and who has been ordered to be imprisoned in a civil jail and such warrant of arrest is in force, no further fee is leviable on the order of committal to jail.

7.- No fee is to be charged for the service or execution of any process issued by a Court of its own motion.

TOP

8.- If a process is transmitted for service by registered post, the Sheriff shall charge the fees hereinabove prescribed for service in addition to the postal and registration charges.

TABLE OF FEES PAYABLE TO THE CLERK OF THE STAFF

		Rs. P
1.	For entering petition of an appeal taking security thereon and entering the admission of appeal taken together.	
2.	Every attendance to produce papers within a distance of 8 Kms from the Court House.	7.00
3.	The like beyond a distance of 8 Kms but within a distance of 16 kms from the Court House.	15.00
4.	The like beyond a distance of 16 kms from the Court House.	20.00
5.	Issuing every commission for taking evidence (including seal) unless for an accused appearing in person when no fee shall be charged.	5.00
6.	Every Rule *Nisi* and every warrant or writ, including seal other than a warrant of appearance or conviction, and every certificate of conviction or acquittal (excluding seal) unless such certificate is required by law to be furnished gratis.	3.00
7.	Every order of Court and every copy of any order of Court; sending every witness subpoena for service outside Bombay (unless for an accused appearing person).	2.00
8.	Every search, filing every affidavit and filing every warrant of appearance.	2.00
9.	Every subpoena to a witness and every duplicate subpoena (unless applied for by an accused in person), filing every document annexed to an affidavit, affixing seal to every return to a commission for taking evidence and sending every notice thereof (unless such commission shall have been issued on behalf of an accused in person), filing every order of the Court and filing every other document required to be filed.	1.00
10.	Copies of charges, depositions and other papers, per folio, unless the clerk of the state, on account of the poverty of the applicant, shall see fit to make any smaller charge or to remit the same altogether.	0.30

TOP

APPENDIX I

RULES FRAMED BY THE HIGH COURT OF JUDICATURE AT BOMBAY FOR REGULATING THE PROCEDURE IN THE MATTER OF REFERENCES AND APPLICATIONS UNDER THE EXPENDITURE TAX ACT, 1957

(ACT NO. 29 OF 1957)

Note.- These rules and their numbers are reproduced hereunder from the Rules of the High Court of Bombay (Original Side), 1957.

RULE 945-Z11. References to be sent to the Prothonotary and senior Master- All references under section 25 of the Expenditure Tax Act, 1957, shall be forwarded to the Prothonotary and Senior Master and shall be dealt with on the Original Side.

RULE 945-Z12. Notice of reference to party at whose instance the reference is made- When the Appellate Tribunal refers a case to the High Court, it shall give notice of that fact to the party at whose instance the reference has been made, and shall call upon him to take such steps in the office of the Prothonotary and Senior Master as may be necessary for bringing the reference to a final conclusion.

RULE 945-Z13. Fixing a date and issuing notice to other side- The party at whose instance a reference has been made shall file the statement of the case in the office of the Prothonotary and Senior Master and shall forthwith take steps to bring the reference to a final conclusion. Such party shall apply to the Prothonotary and the Senior Master to fix a date for the hearing of the reference and shall take out and serve a notice of the date so fixed on the opposite party. If such party fails to take such steps for two months from the receipt of the reference in the High Court, the Prothonotary and Senior Master may set down the reference on board for such orders as the Court, may deem necessary.

RULE 945-Z14. Preparation of paper Book- The party at whose instance a reference has been made shall prepare the paper book which shall contain the Statement of the Case and other papers forwarded by the Appellate Tribunal. The paper book shall be typed or cyclostyled but the Prothonotary and Senior Master may, on the application of the opposite party, direct that the paper book be printed. Two copies of the paper book

TOP

shall be filed in the office of the Prothonotary and Senior Master within two months from the date of the filing of the reference in the High Court.

RULE 945-Z15. Failure to file paper Books- In the event of non-compliance with the last preceding rule, the Prothonotary and Senior Master may set down the reference on board for such orders as the Court may deem necessary.

RULE 945-Z16. Application under section 25(3)- An application under sub-section (3) of section 25 of the Act shall be presented to the Prothonotary and Senior Master. Such application shall be by petition. There shall be annexed to such petition copies of the order and judgment, if any, of the Appellate Tribunal, and also of the relevant documents on which the applicant wants to rely in support of his application.

RULE 945-Z17. Placing of application before the court- The Prothonotary and Senior Master shall place such application before the Court on a day appointed by the Chief Justice. The Court may either reject the application summarily, or order a rule to issue to show cause why the order applied for should not be made. The rule shall be made returnable on such date as the Court may direct.

RULE 945-Z18. Time for furnishing copies of application and service of rule *nisi*- On a rule *nisi* being issued the applicant shall furnish to the officer the Prothonotary and Senior Master two typewritten or printed copies of such application with all its annexures at least one week before the day fixed for the hearing of the rule. The rule nisi together with the copy of the application shall be served on the opposite party, i.e. on the assessee or the Commissioner of Expenditure-Tax, as the case may be, at least fourteen days before the returnable date of the rule.

RULE 945-Z19. Answer to rule nisi- Answer to the rule nisi shall be made on affidavit and the same shall be filed at least four days before the returnable date of the rule nisi. Two copies of such affidavit shall be furnished to the office of the Prothonotary and Senior Master.

RULE 945-Z20. Copy of the Court's order and judgment to be sent to the Appellate Tribunal- Where the rule nisi is made absolute, the Prothonotary and Senior

TOP

Master shall send a copy of the Court's order and Judgment, if any, to the Appellate Tribunal.

RULE 945-Z21. Applications and references to be heard by Bench- All references and applications under section 25 of the Act shall be heard by a Bench of at least two Judges appointed by the Chief Justice.

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TOP

APPENDIX II

RULES FRAMED BY THE HIGH COURT OF JUDICATURE AT BOMBAY IN REGARD TO ELECTION PETITIONS UNDER THE REPRESENTATION OF THE PEOPLE ACT, 1951

(ACT NO. 43 OF 1951)

1. 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 at Bombay;

(d) "the Judge" shall mean the Judge of the High Court of Judicature at Bombay who has been assigned by the Chief Justice under sub-section (2) of the section 80(A) of the Representation of the People Act, 1951, for the trial of Election Petitions;

(e) "the Nagpur Bench" shall mean the Bench of High Court of Judicature at Bombay functioning at Nagpur.

[1](f) "The Aurangabad Bench" shall mean the Bench of High Court of Judicature at Bombay functioning at Aurangabad.

(g) "The Panaji Bench" shall mean the Bench of High Court of Judicature at Bombay function at Panaji, Goa.

2. All proceeding in the High Court in respect of election petitions shall be conducted in English.

3. All petitions, applications, precipies, notes, etc., including copies thereof to be filed in election petitions shall be either printed, or typewritten 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.

1. Amended by Notification No. G/Amend/3996, dated, 15-06-1988, MGG Pt. IV-C, p. 356

TOP

[1][**4.** Election Petitions arising from areas constituting Judicial Districts of Akola, Amravati, Bhandara, Buldhana, Chandrapur, Gadchiroli, Nagpur, Wardha and Yeotmal shall be presented either in person or by an Advocate duly authorised in that behalf by the party concerned to the Additional Registrar of the Nagpur Bench or to such other officer as the said Additional Registrar may, by general or special order issued from time to time, appoint in this behalf:

Election Petitions arising from the areas constituting Judicial Districts of Aurangabad, Beed, Jalana, Latur, Nanded, Osmanabad and Parbhani shall be presented either in person or by an Advocate duly authorised in that behalf by the party concerned to the Additional Registrar of the Aurangabad Bench or to such other officer order issued from time to time, appoint in this behalf;

Election Petitions arising in the State of Goa which lie in the High Court at Bombay shall be presented either in person or by an Advocate duly authorised in that behalf by the concerned to the Special Officer of the Panaji Bench, Goa, or to such other Officer as the Special Officer may be general or special order issued from time to time, appoint in this behalf;

Election Petitions arising from the rest of the areas of the State of Maharashtra or arising in the residuary Union Territory of Daman and Diu, and the Union Territory of Dadra and Nagar Haveli which lie to the High Court of Bombay shall be presented to the Prothonotary and Senior Master, High Court, Bombay, or such other Officer as the Prothonotary and Senior Master may, by special or general orders passed from time to time appoint in this behalf.]

5. 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 the election petition is within time as prescribed in section 81 of the Act.

6. 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

1. Amended by Notification No. G/Amend/3996, dated, 15-06-1988, MGG Pt. IV-C, p. 356

TOP

maintained for the registration of election petitions.

7. After the petition is presented, the party or Advocate shall be asked to attend the office on the third day from the date of the presentation to remove objections, if any. An undertaking in writing will be obtained from the party or Advocate to remain present in the office on the date appointed. The petitioner shall furnish his address preferably in Bombay or Nagpur, as the case may be, where any communication may be addressed to or served on him.

8. 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.

9. Immediately after the time fixed for the removal of objections, 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 sheriff in Greater Bombay, and through the District Judges in the rest of the State in the manner provided for the service of summons. The Prothonotary and Senior Master and 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.

10. In addition to the service of summons to be effected as aforesaid, a summons shall also be sent to the respondents to the address given by the petitioner by registered post prepaid for acknowledgment. The petitioner shall furnish extra copies of the petition to be served along with the summons by registered post. No extra process fees except postal charges, will be recovered.

TOP

11. Those of the respondents who file written-statements or 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 the 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.

12. 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.

13. 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, the diet allowance and the local conveyance allowance for those of them who are required to be summoned.

14. 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.

15. Process fees to be paid shall be the same as provided in the table under Rule 5(1) of chapter XIV of the Bombay High Court Appellate Side Rules, 1960.

16. 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 the diet allowance and the local conveyance 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 discharged by the Judge.

17. 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, diet allowance, and local conveyance allowance shall be paid to the witnesses according to the scale indicated below subject to the conditions indicated in the notes thereunder.

TOP

Class of witness	Travelling Allowance	Diet Allow-ance	Local Conveyance Allowance
Class I Professional men of high position, Members of Parliament and of the State Legislatures, large land owners and owners of big business organisations, and Class I Government Officials who are required to attend in their private capacity.	First Class Rail or Steamer Fare.	Rs. 20 per day.	Actual taxi or horse carriage fare each way, from the place where he is put up to the place where he is required to give evidence, if he is put up within a radius of 8 kms from the place where he is required to give evidence, and if put beyond 8 kms first class local rail fare for each day.
Class II Members of Local Bodies, ordinary professional and business men land owners, other than small farmers, 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 or Steamer Fare.	Rs. 12 per day	Do.
Class III Artisans, clerks, small land owners, village Officers and employees in lower grades of Corporations, local bodies and business organisations and Class HI Government Servants who are required to attend the Courts in their private capacity	Second Class Rail or Steamer Fare.	Rs. 8 per day	Actual bus or second class local rail fare each way.

TOP

Class IV Labourers, petty shopkeepers, paddlers and persons other than those in the above Classes and Class IV Government [servants who are required to attend the Court in their private capacity	Second Class Rail or Steamer Fare.	Rs. 4 per day	Actual bus or second class local rail fare each way.

Note 1.- If there is rail as well as steamer communication between both the places for the whole of the distance, the cheaper of the two modes of travel will be admissible for travelling allowance.

Note 2.- If there is rail communication only for part of the distance and steamer communication for the rest, travel by rail and steamer for the parts for which they are respectively available shall be admissible for travelling allowance.

Note 3.- If in addition to travelling by rail and/or steamer a witness is required to travel by bus also, the actual bus fare paid for such part of the journey shall also be admissible for travelling allowance.

Note 4.- 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 5.- Local conveyance allowance shall be admissible for each day that the witness is required to attend the Court only at Bombay and Nagpur, and shall be payable only if the party calling the witness does not provide conveyance to the witness.

Note 6.- The Special Officer at Nagpur and the Prothonotary and Senior Master at Bombay shall decide to which class a witness belongs or which of the alternative

TOP

modes of travelling should be allowed in a particular case. 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 directions as he thinks just and proper in the case.

Note 7.- 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 of diet allowance than provided for in this scale.

Note 8.- In cases not fully or clearly covered by this scale or in cases where the Judge thinks special considerations should prevail the Judge shall award such amounts for travelling allowance, diet allowance, and local conveyance allowance as he deems proper.

18. 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.

19. 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 House 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 officer shall also report to the Election

TOP

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.

20. 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, as far as possible, in the form prescribed in paragraph 27 of the Civil Manual 1960 issued by the High Court of Judicature at Bombay.

Applications in the petition

21. All applications in each Election Petition shall be separately recorded in a register maintained for the purpose. The record in respect of each election petition shall have the following columns:—

REGISTER OF APPLICATIONS
Election petition No.

Serial No of application in the Election Petition	Date of Presentation	Nature of application	Date and substance of final order
1	2	3	4

When an application is filed, the same shall be placed before the Judge as part of the election petition for passing necessary orders.

22. Applications made to the Court in a pending election petition shall be styled as "Application in a Election Petition No ".

TOP

Advocates

23. (a) An Advocate intending to act for a party shall file a Vakalatnama signed by that party.

(b) [1][Advocates filing their Vakalatnamas in petitions filed at Nagpur, Aurangabad and Panaji shall give their office addresses at Nagpur, Aurangabad and Panaji and Advocates appearing in petitions filed at Bombay shall give their office addresses in Bombay. 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.]

24. A Party will be entitled to Advocate's fees at the rate of Rs. 400 per day, if represented by more than one Advocate, and at the rate of Rs. 2.50 if represented by one Advocate, subject, however, to the discretion of the Judge to allow a higher or lower rate of fees.

Costs

25. The security for costs shall be paid in cash. The amount shall be deposited with the Cashier during the hours in which the cash-business of the office is conducted. Where, pending the trial of the election petition, costs are directed to be paid or deposited by a party who has not deposited any amount as security for costs, the amount of such costs shall be similarly deposited with the Cashier. The amount so deposited shall be credited to the Civil Court Deposit Account. A separate Ledger-folio shall be opened in respect of each party and all receipts and payments made on behalf of the party shall be entered in it. Receipts shall be issued by the Cashier for all amounts received from the parties. The Cashier shall be permitted to retain as balance in hand a sum of not more than Rs. 300.

Miscellaneous

26. 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

1 . Amended by notification G/Amend/3996 dated 15-06-1988 M.G.G., Pt IV-C, p. 356.

TOP

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.

27. All rules of the High court applicable to the preparation of the transcript of the record for the use of the Supreme Court in an appeal to that Court arising from a decree of the High Court in a Civil Appeal Shall apply *mutatis mutandis* to the preparation of the transcript of the record for the use of the Supreme Court in an appeal to that Court arising from a decision of the High 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.

28. Where no specific provisions is made in the Act, the Code or the above rules, the Rules of the Bombay High Court (on the Original Side) 1980 in their application to suits will apply *mutatis mutandis* or as the Judge may direct.

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TOP

APPENDIX III

RULES FRAMED BY THE HIGH COURT OF JUDICATURE AT BOMBAY UNDER SECTION 3 OF THE DESTRUCTION OF RECORDS Act, 1917 (ACT 5 OF 1917), IN REGARD TO THE RECORDS OF THE OFFICES ON THE ORIGINAL SIDE OF THE HIGH COURT.

1. Destruction of records.—The books and papers mentioned in Rules 1 to 64 shall be destroyed or disposed of by the respective Heads of Offices at the times mentioned therein or as soon thereafter as may be convenient. Notice to the Director of Archives and Archaeology before destruction of records—Whenever documents or papers filed by the parties in the records maintained by the Original Side Office are not taken away by the parties within the prescribed time and the documents and papers become liable to destruction under the respective rules framed in that behalf, the Heads of Offices shall give notice, before destruction of such records under the aforesaid respective rules, to the Director of Archives and Archaeology, Maharashtra State, requesting him to inspect the said documents and papers with a view to ascertain if they are of historical value. The Director of Archives and Archaeology should be permitted to take away with the previous permission of the Administrative judge such documents and papers which the Director considers to be of historical value. If the Director of Archives and Archaeology fails to take away such documents and papers within a period of six months from the date of the receipt of the notice of the Heads of the Offices, the Heads of the Offices may proceed with the destruction of the documents and papers in accordance with the rule.

2. Mode of destruction—The destruction of records referred to in rule I shall be carried out whenever a staff for that purpose is available, and it shall be, as far as practicable, effected by burning under the directions of the Head of the office concerned. But if the records cannot be conveniently burnt, they may be torn into very small pieces, and made quite incapable of use again as documents. The fragments should he sold to the highest bidder and the proceeds credited to Government.

TOP

RULES FOR THE PRESERVATION AND DESTRUCTION OF RECORDS OF THE OFFICE OF THE PROTHONOTARY AND SENIOR MASTER

3. Preparation of List of Suits etc. disposed of in each month.—The Superintendent of the Board Department shall, at the commencement of each month, prepare a list of suits, appeals and matters other than interlocutory matters, which have been finally disposed of during the preceding month and forward the said list to the Assistant Superintendent in charge of the Current Record. He shall certify at the foot of the list that the final orders passed in such suits, appeals and matters have been duly noted in the relevant registers.

4. Arrangement of Record after disposal of Suits, etc.— The Assistant Superintendent in charge of the Current Record shall on receipt of the list, arrange the record of such suits, appeals and matters in files to be marked as files 'A', 'B', 'C' and 'D'.

The arrangement of the record of such suits, appeals, and matters in the said files shall be done in the following manner:—

(i) The papers which are required to be preserved permanently shall be kept in File 'A'.

(ii) The papers which are required to be preserved for 30 years shall be kept in File 'B'.

(iii) The papers which are required to be preserved for 12 years shall be kept in File 'C'.

(iv) The papers which are required to be preserved for 6 years shall be kept in File 'D'.

[1](v) The papers which are required to be preserved for 2 years shall he kept in File 'E'.

(vi) The papers which are required to be preserved for 1 year shall be kept in File 'F'.

1. Inserted by G. N. No. G/Amend/1738, Pub. In MGG. Pt. IV-C, dated 22-2-96, p. 43.

TOP

All the files pertaining to any particular case shall be kept together in one bundle.

5. Despatch of record to the record keeper— The Assistant Superintendent in charge of the Current Record shall, at the commencement of every quarter or as soon thereafter as may be convenient, forward to the Record Keeper, duly arranged as aforesaid, the record of all suits, appeals and matters which have been disposed of in previous three months.

A list of the record so forwarded shall be prepared in the form prescribed below and sent along with the records to the Record Keeper:-

Serial No.	**No. and Year of Suit, Appeal or Matter**	**Date of final disposal**	**Remarks, if any**
1	**2**	**3**	**4**

6. Verification of Record.— On receipt of the records the Record Keeper shall verify whether the records correspond with those entered in the list.

7. **Preservation and arrangement of record in the old Record Room.—**The said records shall be kept in the old Record Room in cupboards or on racks and all precautions shall be taken to ensure that the records are not destroyed by white-ants, insects, etc. Any damage noticed in this respect shall be immediately brought to the notice of the Prothonotary and Senior Master.

Each cupboard and rack shall be numbered. Each shelf of a cupboard and rack shall also be numbered.

All the records of a suit or matter, including the records of any appeal therefrom, shall be kept together in one bundle. Cumbrons or bulky records shall be kept separately. The records shall be arranged year-wise according to the years of institution.

A card shall be affixed to each cupboard and rack showing the number of the cupboard and the rack, and the numbers of the shelves and the particulars of the records kept in each shelf of such cupboard and rack.

TOP

A chart of the Record Room shall be prepared showing on it the numbers of the cupboards and the racks and the particulars of the records kept in each cupboard and each rack.

8. Record Keeper to Maintain Register.– The Record Keeper shall maintain a register in the form given below showing the particulars of the records received in the Old record room and their disposal:-

Serial No.	No. and Year of Suit, Appeal or Matter	Date of receipt in the Record Room	Date of final disposal Shelf	No. of Cupboard and	No. of rack and shelf	Dates when due for destruction	Dates when actually destroyed
1	2	3	4	5	6	7	8

9. Test inspection of the Record in the Record Room.– A test inspection of the record kept in the Old Record shall be made at the end of the each quarter by an officer to be appointed for the purpose by the Prothonotary and Senior Master.

10. Note to be kept of Record removed and returned.– when any record is removed from the Old record Room for any purpose a note regarding such removal shall be made by the Report on a Sheet of foolscap paper and such note shall be kept in the bundle where such record was kept. On return of the record, a note to that effect shall be made on the said foolscap paper by the Record Keeper.

11. Preservation and destruction of records.– The papers and registers hereunder mentioned shall be preserved for the periods specified in this rule. On expiry of the respective periods, or as soon thereafter as may be convenient, they shall be destroyed.

PART I

PAPERS FORMING PART OF COURT PROCEEDINGS

(A) To be preserved permanently—

(1) In the case of Suits–

(i) Plaint.

TOP

(ii) Written statement and counterclaim, when they form one document.

(iii) Counterclaim, when filed as a separate document.

(iv) Judgment.

(v) Preliminary and final decree.

(vi) Final order.

(vii) Minutes of final decree or final order (if the same has not been drawn up).

(viii) Order confirming sale in execution.

(ix) Copy of the sale certificate.

(2) In the case of matter other than suits (not being of an interlocutory kind)–

(i) Judgment.

(ii) Final decree or final order.

(iii) Minutes of final decree or final order (if the same has not been drawn up).

(3) In the case of appeals to the High Court-

(i) Judgment.

(ii) Decree or final order.

(iii) Minutes of Final order (if the order has not been drawn up).

[1][(iv) Memo of appeal without annexures.]

[1][(v) Memo of cross-objection without annexures.]

(4) In the case of appeals to the Supreme Court–

(i) Judgment

(ii) Decree or final order.

(5) In the case of applications and references in tax matters-

(i) Judgment.

(ii) Final order.

(iii) Minutes of final order (if the order has not been drawn up.)

(6) In the case of testamentary matters-

(i) Petitions for probate, letters of administration and succession

1. Inserted by Notification No. G/Amend/1078/2022, dated 24th June, 2022 published in M. G. G. Part IV – C Ext. Ord. dated 30th June, 2022 pg. 4

TOP

certificate.

(ii) All other petitions under the Indian Succession Act and The Administrator General's Act.

(iii) Judgment.

(iv) Decree or final order.

(v) Minutes of decree or final order (if the same not been drawn up).

(7) Such papers as, in the opinion of the Prothonotary and Senior Master have historical, sociological or scientific value.

[1][(8) Petitions under Articles 226 and 227 of the Constitution without annexures.]

(B) To be preserved for 30 years-

(1) In the case of suits-

(i) Written statement, when there is no counterclaim or when there is a counterclaim but counterclaim is filed as a separate document.

(ii) Written statement and set-off.

(iii) Reply to counterclaim.

(iv) Reply to set-off.

(v) Minutes of final decree or order (if the same has been drawn up).

(vi) Application for execution.

(vii) Proceedings in execution.

(viii) Order directing sale of movable or immovable property.

(ix) Bond given as security.

(2) In the case of matters other than suits (not being of an interlocutory Kind)-

(i) Petition or application in company matters.

(ii) Petition, application or award under the Arbitration Act.

(iii) Petition or application under Indian Trusts Act.

1. Inserted by Notification No. G/Amend/1078/2022, dated 24th June, 2022 published in M. G. G. Part IV – C Ext. Ord. dated 30th June, 2022 pg. 4

TOP

(iv) Petition or Application under the Trade Marks Act and the Trade and Merchandise Marks Act.

(v) Petition or application for appointment of a guardian of the Person or property of a minor or a lunatic.

(3) In the case of testamentary matters-Administration Bond.

(4) In the case of suits and all other matters-

(i) Minute book relating to matters heard by the Judge in Court or in Chambers.

(ii) Minute book relating to matters heard by the prothonotary and Senior Master.

(C) To be preserved for 12 years-

(1) In the case of suits-

(i) Affidavit giving particulars of averments in pleadings.

(ii) Issues.

(iii) Judge's Notes of hearing.

(iv) Notes of evidence.

(2) In the case of matters other than suits (not being of an interlocutory kind)-

(i) Petition of application not otherwise provided for by these rules.

(ii) Affidavits in support of petition or application in reply and in rejoinder.

(3) In the case of appeals to the High Court and appeals to the Supreme Court One copy of the appeal paper book.

(4) In the case of applications and References in tax matters-

(i) Petition, affidavit in support, in reply and in rejoinder.

(ii) Statement of the case.

(iii) One copy of the paper book.

(5) In the case of testamentary matters-

Affidavit of the attesting witness.

TOP

(D) To be preserved for 6 years:—

In the case of suits, matters (including tax and testamentary matter) and appeals-

(i) Order in interlocutory applications.

(ii) Minutes of interlocutory orders.

(iii) [1][*Deleted*]

(iv) [1][*Deleted*]

(v) Extra copy of the appeal paper book in appeals to the High Court and to the Supreme Court.

(vi) Petition for leave to appeal to the Supreme Court.

(vii) Exhibits.

(viii) Books of account and other books, papers and documents lodged in the High Court on the dissolution of Companies under the Companies Act.

(ix) All papers not otherwise provided for by these rules:

[2]**[(E) Second set to be preserved for two years--**

In the case of Memo of Appeal, Division Bench Writ Petitions, Tax Petitions and Review Petitions, which are disposed of at the stage of admission ; or rejected by Orders of the Court; or which are dismissed for default or dismissed for want of prosecution or which are allowed to be withdrawn.

(F) Second set to be preserved for two years—

In the case of Memo of Appeal, Division Bench Writ Petitions, Tax Matters and Review Petitions, which stands rejected under Rule 986 of the High Court, Original Side Rules, for non-removal of Office objections.]

Computation of time.—The periods prescribed above shall be computed, except in the case of the minute book, from the date of the final decision of the case, and in the case of appeal to the High Court or to the Supreme Court, from the date of the final decision of the appeal.

In the case of minute book relating to matters heard by the Judge in Court or in

1. Deleted by Notification No. G/Amend/1078/2022, dated 24th June, 2022 published in M. G. G. Part IV – C Ext. Ord. dated 30th June, 2022 pg. 4
2. Inserted by G.N. No. G/amend/1738, Pub. in M.G.G. Pt. IV-C, dated 22-2-96, p. 43

TOP

Chambers or relating to matters heard by the Prothonotary and Senior Master, the period prescribed above shall be computed from the end of the period for which the minute book is maintained.

PART II

PAPERS NOT FORMING PART OF COURT PROCEEDINGS

(A) To be preserved permanently-

(a) Board Department-

(i) Register of Suits.
(ii) Register of Admiralty Suits.
(iii) Register of Miscellaneous Applications.
(iv) Register of Appeals.
(v) Register of Income-tax References.
(vi) Register of Sales-tax References.
(vii) Register of Wealth-tax References.
(viii) Register of Gift-tax References.
(ix) Register of Expenditure-tax References.
(x) Register of Estate Duty References.
(xi) Register of Petitions under the Indian Trusts Act.
(xii) Register of Petitions under the Lunacy Act.
(xiii) Register of Award and Petitions under the Arbitration Act.
(xiv) Register of Company Petitions.
(xv) Register of Company Applications.
(xvi) Register of Company Liquidation Proceedings.
(xvii) Register of Land Acquisition References.
(xviii) Register of Appeals to the Supreme Court.
(xix) Register of Suits received from other Courts.

(b) Cash Department-

File of Lapsed deposits.

(c) Testamentary Department-

TOP

(i) Register of Petitions for Probate, Letters of Administration and Succession Certificate.

(ii) Register of other petitions under the Indian Succession Act and the Administrator General's Act'

(iii) Register of Testamentary Suits.

(iv) Register of Grants.

(v) Register of orders passed in Testamentary Matters.

(d) Execution Department-

File containing copies of Sale Certificates.

(B) To be preserved for 30 years from the date of the last entry-

(a) Board Department-

(i) Register of Petitions by indigent persons.

(ii) Register of Income-tax Applications.

(iii) Register of Sales-tax Applications.

(iv) Register of Wealth-tax Applications.

(v) Register of Gift-tax Applications.

(vi) Register of Expenditure-tax Applications.

(vii) Register of Estate Duty Applications.

(viii) Register showing addresses of parties.

(ix) Register showing Court-fees due from indigent persons.

(b) Cash Department-

(i) Register of Bonds.

(ii) Register of confidential reports of the Official Liquidator.

(iii) Main Cash Book.

(c) Testamentary Department-

TOP

(i) Register of Wills lodged in the Testamentary Registry by the Sub-Registrar and others.

(ii) Register of Administration Bonds.

(d) Execution Department-

(i) Register of Applications for Execution.

(ii) Register of Attachments.

(iii) Register of Sale Certificate.

(iv) Register showing documents sent to the Sub-Registrar for registration.

(C) To be preserved for 30 years after the last proceeding mentioned therein is disposed of-

Board Department-

Register of Disciplinary Proceedings.

(D) To be preserved for 12 years from the date of the last entry-

(a) Board Department-

Register of Ex-parte Applications to the Chamber Judge.

(b) Cash Department-

(i) Register of private and Public Examinations under the Companies Act.

(ii) Register of Powers of Attorney.

(iii) Register of Caveat Payment (Colonial Court of Admiralty Act, 1890).

(iv) Pass Books of Banks.

(v) Counterfoil Cheque Books.

(vi) Subsidiary Cash Books in respect of the following Accounts:-

(a) Suitor's Deposit Account.

(b) Commission Account.

(c) Court Fees Deposit Account.

(d) Certified Copy Deposit Account.

TOP

(e) Supreme Court Advocates Deposit Account.

(f) Court Fees Deposit Account in Testamentary matters.

(g) Certified Copy Deposit Account in Testamentary matters.

(vii) Register showing account of stamps cancelled in each month.

(c) Execution Department:—

(i) Caveat Release and Warrant Book (Colonial Court of Admiralty Act, 1890).

(ii) Register showing transmission of certified copies of Decrees and Orders.

(iii) Register showing satisfaction entered on Decrees and Orders.

(iv) Register showing decrees received from other Courts for execution.

(d) Record Department-

Register of Withdrawal of Exhibits.

(E) To be preserved for 12 years after the winding-up of all the companies mentioned therein is concluded-

Board Department—

Register of appearances of creditors and contributories in Company Winding up Matters.

(F) To be preserved for 12 years after all the documents, title-deeds or securities mentioned therein are returned or after all the fixed deposits have matured.

(a) Board Department-

Register of Company documents.

(b) Cash Department-

(i) Register of documents kept in the Strong room.

(ii) Register of title deeds.

(iii) Register of securities.

(iv) Register of fixed deposits.

TOP

(G) To be preserved for 12 years after the last surviving account in the particular ledger is closed-

Note.—An account shall be deemed to be closed when the final payment is made and not when the balance in the account is carried forward from one ledger to another.

(a) Cash Department—Ledger showing accounts of depositors.

(b) Testamentary Department—Ledger showing accounts of Probate Duty and Court Fees.

(H) To be preserved for 6 years from the date of the last entry-

(a) Board Department-

(i) Register of Court Fees paid on plaints.

(ii) Register of Court Fees paid on documents other than plaints.

(iii) Register of Refund of Court Fees.

(iv) Book containing counterfoils of Refund Certificates.

(b) Cash Department-

(i) Register of Stamp Duty and Penalty.

(ii) Receipt Books regarding the following deposits-

(a) Suitors' Deposits.

(b) Appeal Deposits.

(c) Commission Deposits.

(d) Shorthand Fees Deposits.

(e) Court Fees Deposits.

(f) Court Fees Deposits in Testamentary Matters.

(g) Certified Copy Deposits.

TOP

(h) Certified Copy Deposits in Testamentary Matters.

(i) Penalty recoveries

(iii) Poundage Register.

(iv) File regarding Challans.

(c) Testamentary Department-

(i) Register of Court Fees paid on documents.

(ii) Register of Probate Duty and other Court Fees.

(iii) Court Fees Receipt Book.

(iv) Register of Inventory and accounts.

(v) Register regarding issue of Refund Certificates.

(I) To be preserved for 3 years from the date of the last entry-

(a) Board Departmental

(i) Register of Sealed Documents.

(ii) Register of Summonses and Subpoenas.

(iii) Register containing counterfoils of Court Fee Memos in Suits and Matters prior to 1st April 1954.

(iv) Register of Court fees recovered in suits and Matters prior to 1st April 1964.

(v) General Diaries regarding dates of hearing of Suits and Matters.

(vi) Diaries regarding hearing of Suits and Matters before individual Judges.

(vii) Register of pending suits.

(viii) Register of pending appeals

To be destroyed only after the live entries have been carried forward to the new registers.

(ix) Register of Suits referred to and pending with the Commissioner.

(x) Register of stayed Suits.

(xi) Register of Suits referred to arbitration.

(b) Cash Department-

TOP

Register of Undertakings given by Advocates to draw up Decrees and Orders.

(c) Testamentary Department-

(i) Rough register regarding issue of Grants.

(ii) Register of Wills removed daily from the Strong Room.

(iii) Register of Wills forwarded to the office of the Chief Translator and Interpreter.

(iv) Register of Notices.

(v) Receipt book regarding amounts received for certified copies.

(d) Execution Departmental-

(i) Register showing transmission of commissions and Letters of Request.

(ii) Register of Ex-parte Applications made to the Prothonotary and Senior Master.

(e) Decree Department-

(i) Register showing Court fees paid on applications for certified copies of all documents other than judgments.

(ii) Register showing Court Fees paid on certified copies of all documents other than judgments.

(iii) Register showing Court Fees paid on applications for certified copies of judgments.

(iv) Register showing Court Fees paid for certified copies of judgments.

(v) Register of Undertakings given by Advocates to draw up Decrees and Orders.

(vi) Register of Original documents forwarded to the Record Department by the Decree Department.

(f) Record Department-

Register showing original documents sent to the Decree Department.

(J) The following shall be preserved for three years after all the fees mentioned therein have been recovered-

TOP

Board Department-

Ledger showing Court Fees due and recovered in Suits and Matters prior to 1st April 1964.

(K) The following shall be preserved for three years after all the matters mentioned In the register have been finally disposed of:–

Record Department-

Register of Exhibits.

(L) The Following shall be preserved for three calendar years-

Board Department-

Printed daily cause list.

(M) To be preserved for one year from the date of the last entry-

(a) Board Department.

(i) Register of Chamber Summonses (ii) Register of Notices of Motion (iii) Register of suits transferred from the Court of Small Causes.	To be destroyed only after the live entries have been carried forward to the new registers.

(b) Cash Department-

(i) Register regarding fees for declaring documents outside the Court building.

(ii) Register regarding fees in de-bene-esse examinations.

(iii) Register showing fees received for Notes of Evidence furnished by Shorthand Writers.

(iv) Register showing fees paid to Shorthand writers.

(v) File Containing memos issued by shorthand Writers in respect of notes of evidence furnished to parties.

(vi) Register of Certificates issued.

(vii) Register showing numbers of currency notes received from parities.

(c) Testamentary Department-

TOP

(i) Rough Register of petitions.

(ii) Register of work done by Section Writers.

(d) Execution Department-

Register showing transmission of process for service through Courts and in Land Acquisition References.

(e) Decree Department-

(i) Register showing progress of the drawing up of Decrees and Orders,

(ii) Register of Decrees and orders ready for sealing.

(iii) Register showing applications for certified copies of documents other than judgments.

(iv) Register of Applications for certified copies of judgment.

(v) Register of documents sent to the General Department.

(vi) Register of documents called for by the Decree Department.

(vii) Register showing Draft Decrees and Orders assigned to Section Writers for engrossment.

(viii) Rough register showing progress in checking draft Decrees and Orders.

(ix) Diary of meetings to settle draft Decrees and Orders.

(x) Register of judgments called for from the judgment clerk.

(xi) Register of work done by Section Writers.

(xii) Register showing work given to comparers.

(xiii) Register showing work disposed of by comparers.

(xiv) Register showing copies of judgments orders etc. in Tax matters forwarded to the Board Department by the Decree Department.

(xv) Register showing draft Decrees and Orders forwarded to the Record Department by the Decree Department after they are engrossed and sealed.

(f) Record Department-

(i) Register of praecipes for withdrawal of exhibits.

(ii) Register praecipes for sending exhibits for official translation.

(iii) Register of search praecipes.

(iv) Register showing time taken for search.

(v) Register showing proceedings sent to other Departments.

(vi) Register showing papers received from other Departments.

(vii) Register showing papers produced in court.

TOP

(N) General Provision-

To be preserved for 6 years-

All Registers, books and papers not otherwise provided for by these rules.

12. Special order for preservation or destruction— Notwithstanding anything herein contained, the Chief Justice may, for any reason, direct that any of the papers and books be destroyed either earlier or later than the time prescribed by the above rules.

The chief Justice may direct that any book or document not hereinabove mentioned may by destroyed after such time as he may think fit.

13. (1) Preparation of list of suits, etc. in which papers are proposed to be destroyed- The Record Keeper shall, in the month of March every year, prepare a list of suits, matters and appeals in which the papers are proposed to be destroyed. The list shall be approved by an officer to be appointed by the Prothonotary and Senior Master for this purpose.

(2) Notice to be put up- One month before the date fixed for the destruction of records a notice, along with the list prepared under sub-rule (1), shall be put up on the notice board in the office of the Prothonotary and Senior Master, informing parties that it is proposed to destroy the records of suits, matters and appeals mentioned in the said list in accordance with the rules for the destruction of records.

(3) Application for withdrawal of exhibits.- Any party desiring to withdraw any exhibit produced by him may apply to the Prothonotary and Senior Master for its withdrawal. The application shall be made within three weeks from the date of the notice mentioned in sub-rule (2). If no application is made within such time, the exhibit shall be destroyed in accordance with these rules.

14. Record due for destruction to be kept separately—The record which is due for destruction in any year shall be taken out and kept on separate racks until it is destroyed.

TOP

15. Record to be destroyed in Summer Vacation. Disposal of destroyed records- The destruction of records shall ordinarily be carried out in the Summer Vacation each year. The destroyed record shall be dispose of in accordance with the orders issued by Government from time to time.

RULES FOR PRESERVATION AND DESTRUCTION OF RECORDS OF THE OFFICE OF THE MASTER AND REGISTRAR IN EQUITY AND COMMISSIONER FOR TAKING ACCOUNTS.

16. Arrangement of record after disposal of reference of matter— Immediately after final orders have been passed by the Commissioner for Taking Accounts in a reference or other matter on his file, the record of the case shall be arranged in files to be marked as files "A", "B", "C" and "D". The arrangement of the record in files shall be done in the following manner:-

(i) The papers which are required to be preserved permanently shall be kept in File "A".

(ii) The papers which are required to be preserved for 30 years shall be kept in File "B".

(iii) The papers-which are required to be preserved for 12 years shall be kept in File "C".

(iv) The papers which are required to be preserved for 6 years shall be kept in File "D".

All the files pertaining to any particular case shall be kept together in one bundle.

17. Preservation and destruction of records—The papers and registers hereunder mentioned shall be preserved for the periods specified in this rule. On the expiry of the respective periods or as soon thereafter as may be convenient, they shall be destroyed**.**

PART I

PAPERS FORMING PART OF COURT PROCEEDINGS

(a) To be preserved permanently-

Such papers as in the opinion of the Commissioner for Taking Accounts have historical, sociological or scientific value.

TOP

(b) To be preserved for 30 years-Judgements of the Commissioner

(c) To be preserved for 12 years-

(i) Statement of accounts.

(ii) Statement of objections.

(iii) Statement of surcharges.

(iv) Minute Book of each reference.

(v) Notes of Evidence.

(vi) Valuation Reports.

(d) To be preserved for 6 years-

(i) Copy of Certificate and Report issued by the Commissioner.

(ii) Certified copy of Decretal Order of Reference.

(iii) Certified copy of Decree Absolute for sale.

(iv) Certificate re: Appointment of Receiver.

(v) Affidavit of service of Warrant or Notice.

(vi) Affidavit of Documents.

(vii) Exhibits.

(viii) Affidavit re: Publication of Proclamation and Notice of Sale etc.

(ix) Particulars and Conditions of sale.

(x) Proclamation, advertisement and abstract of title.

(xi) All papers not otherwise provided for by these rules.

Computation of time.—The periods prescribed above shall be computed from the date of the final decision of the case by the High Court and in the case of appeal to the High Court or to the Supreme Court from the date of the final decision of the appeal.

TOP

PART II

PAPERS NOT FORMING PART OF COURT PROCEEDINGS

(a) To be preserved permanently-

File of lapsed deposits.

(b) To be preserved for 30 years from the date of the last entry-

(i) Register of Accounts filed by the Court Receiver.

(ii) Register of Accounts filed by the private Receiver.

(iii) Cash-Book.

(iv) Register showing Court fees due from indigent persons.

(c) To be preserved for 12 years from the date of the last entry-

(i) Register of References.

(ii) Receipts of payment made to parties.

(iii) Pass books of banks.

(iv) Counter foil cheque books.

(d) To be preserved for 12 years after the last surviving account in the particular ledger closed.

Note.- An Account shall be deemed to be closed when the final payment is made and not when the balance in the account is carried forward from one ledger to another ledger.

(e) To be preserved for 6 years from the date of the last entry-

(i) Counterfoil receipt book.

(ii) File of challans.

(f) To be preserved for 3 years from the date of the last entry-

(i) Counterfoil voucher book.

TOP

(ii) Fee-book.

(iii) Register of fees due by Advocates.

(iv) Rough Register of payments made by Advocates.

(v) Fair Register of payments made by Advocates.

(vi) Warrant Book.

(g) General Provision-

To be preserved for 3 years-

All Registers, books and papers not otherwise provided for by these rules.

18. Special order or preservation or destruction.—Notwithstanding anything herein contained, the Chief Justice may, for any reason, direct that any of the above papers and documents be destroyed either earlier or later than the time prescribed by the above rules.

The Chief Justice may direct that any book or document not hereinabove mentioned may be destroyed after such time as he may think fit.

19. (1) Preparation of list of cases, etc. in which papers are proposed to be destroyed— The Commissioner for Taking Account shall, in the month of March every year, prepare a list of cases in which the papers are proposed to be destroyed.

(2) Notice to be put up—One month before the date fixed for the destruction of record a notice, along with the list prepared under sub-rule (1) shall be put up on the notice board in the office of the Commissioner for Taking Account informing parties that it is proposed to destroy the records of cases mentioned in the said list in accordance with rules for the destruction of records.

(3) Application for withdrawals of exhibits—Any party desiring to withdraw any exhibit produced by him may apply to the Commissioner for Taking Accounts for its withdrawal. The application shall be made within three weeks from the date of the notice

TOP

mentioned in sub-rule (2). If no application is made within such time, the exhibit shall be destroyed in accordance with these rules.

20. Records to be Destroyed in summer vacation. Disposal of destroyed records— The destruction of records shall ordinarily be carried out in the Summer Vacation each year. The destroyed record shall be disposed of in accordance with the orders issued by Government from time to time.

RULES FOR THE PRESERVATION AND DESTRUCTION OF RECORDS OF THE OFFICE OF THE TAXING MASTER.

21. Arrangement of record after disposal of matter—Immediately after the final order has been passed by the Taxing Master in a bill of costs or other matter on his file, the record of the case shall be arranged in files to be marked as files "A", "B", AND "C"

The arrangement of the record in files shall be done in the following manner:—

(i) The papers which are required to be preserved permanently shall be kept in File "A".
(ii) The papers which are required to be preserved for 12 years shall be kept in File "B".
(iii) The papers which are required to be preserved for 6 years shall be kept in File "C".

All the files pertaining to any particular case shall be kept together in one bundle.

22. Preservation and destruction of records- The papers and registers hereunder mentioned shall be preserved for the periods specified in this rule. On the expiry of the respective period or as soon thereafter as may be convenient they shall be destroyed.

PART I

PAPERS FORMING PART OF COURT PROCEEDINGS

(a) To be preserved for 12 years-.

(i) Judgments of the Taxing Master, except those which the Prothonotary and Senior Master in consultation with the Taxing Master consider should be preserved for longer periods.

(ii) File containing copies of allocature.

(b) To be preserved for 6 years-

(i) Bill of Costs.

TOP

(ii) Objections.

(iii) Notes of Evidence.

(iv) Exhibits.

(v) Affidavits of service.

(vi) Proceedings relating to Reference for determining Court fee payable in a Suit or Master.

(vii) Proceeding relating to References for determining the valuation of a suit or matter.

(viii) Minute books.

(ix) All papers not otherwise provided for by these rules.

Computation of the time.—The periods prescribed above shall be computed from the date of issue of final allocature in the case of Bills of Costs and in the case of other matters except the file containing copies of allocature and the minute book from the date of final disposal of the matter by the Taxing Master and in the case of appeal, from the date of the final disposal of the appeal. In the case of the file containing copies of allocature and the Minute book, the period prescribed above shall be computed from the end of the period for which the file or Minute book is maintained.

PART II

PAPERS NOT FORMING PART OF COURT PROCEEDINGS

(a) To be preserved for 6 years from the date of the last entry-

(i) Register of Bills of Costs.

(ii) Register of objections.

(iii) Book containing counterfoils of refund certificates.

(iv) Counterfoil voucher book.

(b) To be preserved for 3 years from the date of the last entry-

TOP

(i) Register of Bills of Costs which are withdrawn.

(ii) Fee-Book.

(iii) Register showing Court fees due from Advocates.

(iv) Register showing Court fees due from indigent persons.

(v) Warrant or notice book.

(vi) Register showing accounts of stamps cancelled in each month.

(c) General Provision- To be preserved for 3 years- All Registers, books and papers not otherwise provided for by the aforesaid rules.

23. Special order for preservation or destruction- Notwithstanding anything herein contained the Chief Justice may for any reason direct that any of the above papers and documents be destroyed either earlier or later than the time prescribed by the above rules.

The chief Justice may direct that any book or document not hereinabove mentioned may be destroyed after such time as he may think fit.

24. (1) Preparation of list of matters in which papers are proposed to be destroyed— The Taxing Master shall, in the month of March every year, prepare a list of matters in which the papers are proposed to be destroyed.

(2) Notice to be put up—One month before the date fixed for the destruction of records a notice, along with the list prepared under sub-rule (1), shall be put up on the notice board in the office of the Taxing Master, informing parties that it is proposed to destroyed the records of Bills of Costs and Matters mentioned in the said list in accordance with rules for the destruction of records.

(3) Application for withdrawals of exhibits—Any party desiring to withdraw any exhibit produced by him may apply to the Taxing Master for its withdrawal. The application shall be made within three weeks from the date of the notice mentioned in sub-rule (2). If no application is made within such time the exhibits shall be destroyed in accordance with these rules.

TOP

25. Records to be destroyed in Summer Vacation.—Disposal of destroyed records— The destruction of records, shall ordinarily be carried out in the Summer Vacation each year. The destroyed record shall be disposed of in accordance with the orders issued by Government from time to time

Rules For the Preservation and Destruction of Records of the Office of the Insolvency Registrar

26. Arrangement of record after disposal of matter—Immediately after the final order Has been passed in a matter the record of the case shall be arranged in files to be marked as files "A", "B", "C" and "D".

The arrangement of the record in files shall be done in the following manner:-

(i) The papers which are required to be preserved permanently shall be kept in File "A".

(ii) The papers which are required to be preserved for 30 years shall be kept in File "B".

(iii) The papers which are required to'be preserved for 12 years shall be kept in File "C".

(iv) The papers which are required to be preserved for 6 years shall be kept in File "D".

All the files pertaining to any particular case shall be kept together in one bundle.

27. Preservation and destruction of record.—The paper and registers hereunder mentioned shall be preserved for the periods specified in this rule. On the expiry of the respective periods or as soon thereafter as may be convenient, they shall be destroyed.

Part 1

Papers Forming Part of Court Proceedings

(a) To be preserved permanently-

(i) Order of adjudication.

(ii) Order setting aside the Order of adjudication.

(iii) Order for the administration in insolvency of the estate of a deceased debtor

(iv) Judgment.

(v) Order on the Application of discharge

TOP

(vi) Order of annulment.

(vii) Orders sanctioning sale of Insolvent's immovable property.

(b) To be preserved for 30 years-

(i) Insolvency petition filed by debtor.

(ii) Insolvency petition field by creditor, together with affidavit in support.

(iii) Affidavit in reply to the creditor's insolvency petition and the affidavit in rejoinder thereto.

(iv) Schedule of Insolvent's assets and liabilities.

(v) Notes of public examination.

(vi) Notes of private examination of witnesses.

(vii) Report of the Official Assignee on the application for discharge

(viii) Minute book.

(c) To be preserved for 12 years—

(i) Report and petitions of the Officials Assignee and the orders passed thereon.

(ii) Insolvency Notice and papers relating thereto.

(iii) Exhibits.

(iv) Disclaimer of Tenancy by the Official Assignee,

All papers relating to Insolvency petitions and Insolvency Notices not otherwise provided for by these rules.

The periods prescribed above shall be computed except as hereinafter otherwise provided from the date of final conclusion of the Insolvency proceedings. For the purpose of these rules, the proceedings shall in the case of an Insolvency Petition, be deemed to be finally concluded when the petition is dismissed or when the insolvent is discharged or when the Order of adjudication is annulled and in the case of an Insolvency Notice, the proceedings shall be deemed to be finally concluded when the Insolvency Notice is dismissed or set aside or becomes infructuous or when the notice is made the basis of an Insolvency Petition.

In the case of an Insolvency petition filed by a debtor or an Insolvency petition filed by a creditor and the affidavit in support, the period prescribed above shall be computed from the date of declaration of final dividend or from the date on which the Official Assignee records in writing that there does not appear to be

TOP

any possibility 1 of a dividend being declared.

In the case of Minute book, the period prescribed above shall be computed from the end of the period for which the minute book is maintained.

Part II

Papers Not forming part of Court Proceedings

(a) To be preserved permanently—

(i) Register of Insolvency Petitions.

(ii) Index book of Insolvency Petitions.

(b) To be preserved for 30 years from the date of the last eritry-

(i) Register of Insolvency Notices.

(ii) Cash Book

(c) To be preserved for 12 years after the last surviving account in the particular ledger is closed-

Note:—An account shall be deemed to be closed when the final payment is made and not when the balance in the account is carried forward from one ledger to another. Ledger showing accounts of depositors.

(d) To be preserved for 12 years from the date of the last entry-Files containing receipts of payments made to parties.

(e) To be preserved for 3 years from the date of the last entry-

(i) Cashbook regarding sale of printed forms.

(ii) Book containing duplicate of Court fee memos.

(iii) Register of Court fees recovered.

(f) General Provision-

To be preserved for 6 years-

All registers, books and papers not otherwise provided for by these rules.

28. Special order for preservation or destruction—Notwithstanding anything herein contained, the Chief Justice may for any reason direct that any of the above papers and documents be destroyed either earlier or later than the time prescribed by the above rules.

TOP

The Chief Justice may directed that any book or document not hereinabove mentioned may be destroyed after such time as he think fit.

29. Preparation of list of matters in which papers are proposed to be destroyed—(1) The Insolvency Registrar shall, in the month of March every year, prepare a list of matters in which the papers are proposed to be destroyed.

(2) One month before the date fixed for the destruction of records a notice, along with the list is prepared under sub-rule (1), shall be put up on the notice board in the office of the Insolvency Registrar, informing parties that it is proposed to destroy the records of matters mentioned in the said list in accordance with the rules for the destruction of records.

(3) Any party desiring to withdraw any exhibit produced by him may apply to the Insolvency Registrar, for its withdrawal. The application shall be made within three weeks from the date of the notice mentioned in sub-rule (2). If no application is made within such time the Exhibits shall be destroyed in accordance with these rules.

30. Records to destroyed in Summer Vacation. Disposal of destroyed records—The destruction of records shall ordinarily be carried out in the Summer Vacation each year. The destroyed records shall be disposed of in accordance with the orders issued by Government from time to time.

RULES FOR THE PRESERVATION AND DESTRUCTION OF RECORDS OF THE OFFICE OF THE CHIEF TRANSLATOR AND INTERPRETER

31. Preservation and destruction of record—The papers and registers hereunder mentioned shall be preserved for the periods specified in this Rule. On the expiry of the respective periods or as soon thereafter as may be convenient, they shall be destroyed.

(a) To be preserved for 6 years from the date of the last entry—

(i) General Register showing documents received for translation.

(ii) Register showing documents delivered with their translations.

(b) To be preserved for 6 years from the end of the period for which the register is

TOP

maintained-

(i) Register showing documents received from each firm of Advocates for translation.

(ii) Register showing documents received from Advocates and parties in person for translation.

(c) To be preserved for 3 years from the date of the last entry-

(i) Register showing work given to each translator.

(ii) Register showing interpretation work done in the office.

(iii) Register showing interpretation work done out of office.

(iv) Register showing documents returned to the Prothonotary and Senior master, to the Registrar, Appellate Side, to other Officers of the High Court and to the Registrar of the Bombay City Civil Court and the Registrar of the Sessions Court, Greater Bombay.

(v) Register showing particulars of amounts deposited for translation charges.

(vi) Cash book showing amounts deposited for translation charges.

(vii) Book containing counterfoils of receipts in respect of deposits.

(viii) Book containing counterfoils of bills in respect of charges for interpretation of evidence.

(d) To be preserved for 3 years from the date of deposit in the office-

Account books and other documents lodged for translation and lying unclaimed for the above period.

(e) To be preserved for 1 year from the date of the last entry-

(i) Register showing processes received for translation.

(ii) Register showing delivery of processes with their translations.

(iii) Register of applications for certified copies of translations of processes.

(iv) Register showing delivery of certified copies of translations.

(v) Memo book showing the translations ready for delivery.

TOP

(f) To be preserved for 1 years from the end of the year in which they are received

Praecipes and letters received from suitors. General provision

(g) To be preserved for 3 years from the date of the last entry-

All registers and books and papers not otherwise provided for by these rules.

32. Special order for preservation or destruction—Notwithstanding anything herein contained, the Chief Justice may for any reason direct that any of the above papers and documents be destroyed either earlier or later than the time prescribed by the above rules.

The Chief Justice may direct that any book or document not hereinabove mentioned may be destroyed after such time as he may think fit.

33. (1) Preparation of list of papers proposed to be destroyed—The Chief Translator and Interpreter shall, in the month of March every year, prepare a list of papers which are proposed to be destroyed.

(2) Notice to be put up- One month before the date fixed for the destruction of records a notice, along with the list prepared under sub-rule (1) shall be put up on the notice board in the office of the chief Translator and Interpreter, informing parties that it is proposed to destroy the papers mentioned in the said list in accordance with the rule for the destruction of records.

(3) Application for withdrawal of document—Any party desiring to withdraw any document lodged by him may apply to the Chief Translator and Interpreter for its withdrawal. The application shall be made within three weeks from the date of the notice mentioned in sub-rule (2). If no application is made within such time, the document shall be destroyed in accordance with these rule.

34. Records to be destroyed in Summer Vacation. Disposal Of destroyed record— The destruction of records shall ordinarily be carried out in the summer vacation each year. The destroyed record shall be disposed of in accordance with the orders issued by Government from time to time.

OFFICE OF THE ACCOUNTS OFFICER, HIGH COURT.

35. Preservation and destruction of record- The papers and registers hereunder mentioned shall be preserved for the periods specified in this rule. On the expiry of the respective periods or as soon as thereafter as may be convenient, they shall be destroyed.

(a) To be preserved permanently-

(i) Register of Causes.

(ii) Statement of Lapsed Deposits.

(b) To be preserved for 30 years from the date of the last entry

(i) Cash book

(ii) Payee's Receipt Book.

(c) To be preserved for 30 years from the end of the period for which the register is maintained-

Ten yearly register showing details of amounts due to' be paid periodically to parties.

(d) To be preserved for 30 years after the final the payment is made-

File in respect of each cause.

(e) To be preserved for 12 years from the end of the period for which the register is maintained-

Stock Register.

(f) To be preserved for 12 years from the date of the last entry-

(i) Register of amounts due from parties.

(ii) Register showing special and final payments made to parties.

(iii) Counterfoil cheque Book.

(iv) Bank Pass Book.

(v) Register of Power of Attorney.

(g) To be preserved for 12 years from the end of the period for which the register is maintained-

Subsidiary General Ledger Account (of Securities) with the Reserve Bank of India.

TOP

(h) To be preserved for 12 years after the last surviving account in the particular ledger is closed-

Note.- An account shall be deemed to be closed when the final payment is made and not when the balance in the account is carried forward from one ledger to another.

Ledger showing account of minors etc.

(i) To be preserved for 6 years from the date of the last entry-

(i) Journal.

(ii) Office receipt Book.

(j) To be preserved for 3 years from the end of the period for which the register is maintained-

Stock Disposal Register.

(k) To be preserved for 3 years from the date of the last entry-

(i) Intermediate Register.

(ii) Book containing counterfoils of certificates showing balances to the credit of causes.

(iii) Register showing securities in Suspense Account.

(iv) Register showing amounts received in the office.

(v) Register showing securities received from the Reserve Bank of India.

General provision.

(l) To be preserved for 6 years-

All registers, books and papers not otherwise provided for by these rule.

36. Special order for preservation or destruction— Notwithstanding anything herein contained, the chief Justice may for any reason direct that any of the above papers and documents be destroyed either earlier or later than the time prescribed by the above rules.

The chief Justice may direct that any book or document not hereinabove mentioned

TOP

may be destroyed after such time as he may think fit.

37. (1) Preparation of list of papers proposed to be destroyed—The Accounts Office shall, in the month of March of every year, prepare a list of papers which are proposed to be destroyed.

(2) Notice to be put up—One month before the date fixed for the destruction of records the Accounts Officer shall put up on the notice board of his office the list prepared under sub- rule (1) and notify that he will destroy the papers and registers mentioned in the said list in accordance with the rules for the destruction of records.

38. Records to be destroyed in summer vacation. Disposal of destroyed records—The destruction of records shall ordinarily be carried out in the Summer vacation each year. The destroyed record shall be disposed of in accordance with the orders issued by Government from time to time.

RULES FOR THE PRESERVATION AND DESTRUCTION OF RECORDS OF THE OFFICE OF THE SHERIFF OF BOMBAY

39. Preservation and destruction of record – The papers and registers hereunder mentioned shall be preserved for the periods specified in this rule.

On the expiry of the respective periods or as soon thereafter as may be convenient they shall be destroyed.

(a) To be preserved for 30 years form the date of the last entry-

(i) General Cash Book

(ii) File of Statements of Balances.

(iii) Register of immovable properties sold by the Sheriff.

(b) To be preserved for 12 years from the date of the last entry-

(i) Bank Pass Book

(ii) Counterfoil cheque Book

(iii) Movable property inventory register.

(c) To be preserved for 12 years after the last surviving account in the particular

TOP

ledger is closed-

Note.– An account shall be deemed to be closed when the final payment is made and not when the balance in the account is carried forward from one ledger to another ledger.

(d) To be preserved for 6 years from the date of the last entry-

(i) Process register.

(ii) Process Fee Receipt Book

(iii) Book containing Counterfoils of General Cash Receipts.

(iv) Challan Files.

(v) Petty Cash Receipt File.

(vi) Register of Summonses.

(vii) Register of Notices.

(viii) Register and file of Warrants**.**

(e) To be preserved for 3 years from the date of the last entry-

(i) Appellate Side Process File

(ii) File containing Applications for appointment of Special Bailiffs.

(iii) Special Bailiffs' Register.

(iv) Book containing counterfoils of Special Bailiffs' Certificates.

(f) To be preserved for 1 year from the date of the last entry

(i) Jury correspondence File.

(ii) Jury Advertisement File.

(iii) Witness Subpoena register.

(iv) Witness Subpoena Despatch Book.

(g) To be preserved for 1 year from the date of the publication In the government Gazette-

(i) List of Special Jurors.

TOP

(ii) List of Common Jurors**.**

(h) To be preserved for 1 year from the date of the conclusion of the Criminal Sessions-

(i) Special Jury Panels

(ii) Common Jury Panels.

General Provisions.

(i) To be preserved for 6 years-

All registers, books and papers not otherwise provided for by the rules.

40. Special order for preservation or destruction- Notwithstanding anything herein contained, the chief Justice may for any reason direct that any of the above papers and documents be destroyed either earlier or later than the time prescribed by the above rules.

The Chief Justice may direct that any book or document not hereinabove mentioned may be destroyed after such time as he may think fit.

41. (1) Preparation of list of papers proposed to be destroyed- The Deputy sheriff Shall , in the month of march every year, prepare a list of papers which are proposed to be destroyed.

(2) Notice to be put up- One month before the date fixe for the destruction of records the Deputy Sheriff shall put up on the notice board of his office the list prepared under sub-rule (1) and notify that he will destroy the papers mentioned in the said list in accordance with the rule for the destruction of records.

42. Records to be destroyed in Summer Vacation. Disposal of destroyed records.- The destruction of records shall ordinarily be carried out in the Summer vacation each year. The destroyed record shall be disposed of in accordance with the orders issued by Government from time to time.

TOP

RULES FOR THE PRESERVATION AND DESTRUCTIONS OF RECORDS OF THE OFFICE OF THE CLERK OF THE STATE

43. Arrangement of record after disposal of case. Immediately after the passing of the final order in any case the record of the case shall be arranged in files to marked as files 'A' 'B' 'C' and 'D'

The arrangement of the record in files shall be done in the following manner :-

(i) The papers which are required to be preserved permanently shall be kept in File 'A'

(ii) The papers which are required to be preserved for 12 years shall be kept in File 'B'

(iii) The papers which are required to be preserved for 6 years shall be kept in File 'C'

(iv) The papers which are required to be preserved for 1 year shall be kept in File 'D'

44. Preservation and destruction of record– The papers and registers hereunder mentioned shall be preserved for the periods specified in this rule. On the expiry of the respective periods, or as soon thereafter as may be convenient, they shall be destroyed.

PART I

PAPERS FORMING PART OF COURT PROCEEDINGS

(a) To be preserved permanently-

(i) Judge's Charge to the Jury.

(ii) Judgment.

(iii) Such papers as, in the opinion of the Prothonotary and Senior Master, are of historical, sociological or scientific value.

(b) To be preserved for 30 years-

Minute books containing minutes of proceedings in Court.

(c) To be preserved for 12 years-

(i) Certificate of the Advocate General under clause 26 of the Letters Patent.

(ii) Notes of Evidence.

TOP

(iii) Statement of the Accused.

(iv) Warrant of commitment to Jail along with its return after execution of the sentence and office copy of the said warrant.

(v) Bond taken from the Accused for keeping the peace and for good behaviour.

(vi) One copy of Appeal Paper Book.

(vii) Documentary exhibits or copies of those returned.

(d) To be preserved for 6 years-

(i) Charge against the Accused.

(ii) Extra copies of the Appeal Paper Book.

(iii) Depositions of witnesses and Statements of the Accused before the Committing Magistrate. .

(iv) Copies of orders on petitions for mercy and the papers connected therewith.

(v) List of exhibits.

(vi) Charge sheets.

(vii) Inquest proceedings before the Coroner.

(viii) Affidavits, interim orders and other papers in matters under section 491 of the Criminal Procedure Code and Habeas Corpus Jurisdiction.

(e) To be preserved for 1 year-

(i) Memorandum of appeal.

(ii) Sub-poenas.

(iii) Praecipes for search, producing papers, drawing up Rule Nisi, Order, etc.

(iv) Application for copies, for adjournment, for summons, etc.

(v) Warrants of appearance.

(vi) Affidavits of service.

(vii) Bail papers and bonds.

(viii) Translation of Rule Nisi, etc.

(ix) Drafts of Rule Nisi, Orders, etc.

TOP

(x) Application for exemption from jury service.

(xi) Any correspondence relating to committal of accused.

Computation of time—The periods prescribed above shall be computed except in the case of the minute book from the date of final decision of the case where no appeal has been filed and from the date of final, decision of the Appellate Court when an appeal has been filed.

In the case of Minute Book, the period prescribed above shall be computed from the end of the period for which the Minute Book in maintained.

PART II

PAPERS NOT FORMING PART OF COURT PROCEEDINGS.

(a) To be preserved permanently-

Register of cases.

(b) To be preserved for 30 years-

(i) Declarations of proprietors, printers and publishers of newspapers, magazines, etc.

(ii) Inward and Outward Correspondence Files.

(c) To be preserved for 3 years-

(i) Annual Judicial Statements.

(ii) Letter delivery and receipt Books.

(iii) Register of payments made to witnesses and for contingent expenses.

(iv) List of Jurors.

(v) Jury Panels.

(vi) Register of Court fee stamps cancelled.

(vii) Vouchers for Bhatta and road money to witnesses and for contingent expenses, etc.

(viii) Defence briefs in Murder Cases.

TOP

45. Special order for preservation or destruction- Notwithstanding anything herein contained, the Chief Justice may for any reason direct that any of the above papers and documents be destroyed either earlier or rather than the time prescribed by the above rules.

The Chief Justice may direct that any book or document not hereinabove mentioned may be destroyed after such time as he may think fit.

46. (1) Preparation of list of cases and appeals in which papers are proposed to be destroyed- The Clerk of the State shall, in the month of March every year, prepare a list of cases and appeals in which the papers are proposed to be destroyed.

(2) Notice to be put up- One month before the date fixed for the destruction of records, a notice along with the list prepared under sub-rule (1), shall be put up on the notice board in the office of the Clerk of the State, informing parties that it is proposed to destroy the record of cases and appeals mentioned in the said list in accordance with the rules for the destruction of records.

(3) Application for withdrawal of exhibits—Any party desiring to withdraw any exhibit produced by him may apply to the Clerk of the State for its withdrawal. The application shall be made within three weeks from the date of the notice mentioned in sub-rule (2). If no application is made within such time, the exhibits shall be destroyed in accordance with these rules.

47. Records to be destroyed in Summer Vacation. Disposal of destroyed records— The destruction of records shall ordinarily be carried out in the Summer Vacation each year. The destroyed record shall be disposed of in accordance with the orders issued by Government from time to time.

RULES FOR THE PRESERVATION AND DESTRUCTION OF RECORDS OF OFFICE OF THE OFFICIAL ASSIGNEE.

48. Preservation and destruction of records—The papers and registers hereunder mentioned shall be preserved for the periods specified in this Rule.

On the expiry of the respective periods or as soon thereafter as may be convenient they shall be destroyed.

Note.-Names of all departments to be printed in bold letters.

TOP

Name of the Department and nature of book and/or documents	Period of preservation	The time from which period is to be reckoned
(A) COURT DEPARTMENT (1) Register showing particulars of Suits, Appeals and other proceedings filed by or against the Official Assignee in all Civil Courts in India other than the Court's of Small Causes at Bombay.	Permanently	
(2) Register showing particulars of Conveyances, Assignments and other documents executed by the official Assignee.	Do	
(3) Register of Minutes of Orders passed by the Insolvency Judge	Do	
(4) Copies of Judgments delivered in Insolvency matters	Do	
Cash and Accounts Department		
Ledger of Unclaimed Dividend Capital Account and Unclaimed Dividend Revenue Account.	Do	
Record Department		

TOP

(1) Register showing particulars of Insolvency Petitions and Orders made thereon.	Permanently	
2) Index to the Register mentioned in Item (I) above.	Do	
(B) CASH AND ACCOUNTS DEPARTMENT		
(1) File of Dividend Warrants discharged by Creditors.	30 years	From the date of the last Dividend Warrant.
(2) File of Letters of Indemnity given by Advocates regarding Suits and Indemnity.	30 years	From the date of the last Letter of Indemnity.
Claim and Dividend Department		
(1) Register of Claims	30 years	From the date of last entry.
2) Index to Register of Claims	30 years	From the date of last entry.
(3) Register containing Court's directions for declaration of Dividend.	30 years	From the date of last entry.
(4) Register showing particulars of documents produced at the time of claiming Dividends	30 years	From the date of last entry.
(5) Dividend Register showing particulars of dividend declared in each Insolvency.	30 years	From the date of last transfer to the Unclaimed Dividend Capital Account.

TOP

(6) General Index to Dividend Register	30 years	From the date of last transfer to the Unclaimed Dividend Capital Account.
(7) File containing Divided Warrants forwarded to creditors but returned by the Returned Letter Office	30 years	From the date of last transfer to the Unclaimed Dividend Capital Account.
(8) File containing Indemnity of Advocates for issue of duplicate Dividend Warrants.	30 years	From the date of the last indemnity.
Record Department		
File of certified copies of Orders of Adjudication received from the Insolvency Registrar.	30 years	From the date of the order.
(C) COURT DEPARTMENT		
(1) Copy of Annual Report of the Official Assignee made to the Insolvency Judge in respect of Insolvencies not finally would up at the end each Calendar Year.	12 years	From the date of the last Report.
(2) File of Letters of Authority filed by Advocates	12 years	From the date of the last Letter of Authority
(3) Register of Summary Cases	12 years	From the date of the last entry
(4) Register of Non Summary Cases	12 years	

TOP

Cash and Accounts Department		
(1) Register of documents kept in strong room	12 years	After all documents mentioned therein are returned.
(2) Register of valuables	12 years	After Valuables mentioned therein are disposed of.
(3) Cash Book of daily receipts and payments in different estates.	12 years	From the date of the last entry
(4) Journal	12 years	Do.
(5) Pass-book of personal Ledger Account of the Official Assignee in the Reserve Bank of India	12 years	From the date of the last entry
(6) file of Memos regarding entries made in Journal.	12 years	From the date of the last entry
(7) File of vouchers or receipts in respect of payment made by the Official Assignee	12 years	After the date of the last Voucher or Receipt.
(8) Ledgers showing accounts of different estates	12 years	After the last surviving Account in a particular Ledger is closed.
Note- An account shall be deemed to be closed when the final payment is made and not when the balance in the account is carried forward from one Ledger to another.		
(9) Index to Ledger	12 years	After the last surviving Account mentioned in the Index is closed.

TOP

(10) File of refund of Income Tax paid on interest earned on Government Securities held by the official Assignee.	12 years	From the end of the period for which the file is maintained.
Claim and Dividend Department		
(1) Register showing names of creditors entitled to dividend.	12 years	From the date of the last entry.
(2) File containing Affidavits in respect of Articles claimed.	12 years	From the date of the last entry.
(3) File of statements of account forming basis for declaring Dividends.	12 years	From the date of the last Statement.
(4) File containing affidavits of claim	12 years	From the date of declaration of Final Dividend or from the date of the Order of Adjudication in cases where the Official Assignee considers it impossible to declare a Dividend.
Outstanding Department		
(1) Register of outstandings due to Insolvents estates.	12 years	From the date of the last entry.
(2) Register of Suits filed in the Court of Small Causes at Bombay by the Official Assignee to recover outstandings due to Insolvents.	12 years	From the date of the last entry.
(3) File Containing inventories of movable properties taken possession of by the Official	12 years	From the date of the last Inventory.

TOP

Assignee.		
Record Department		
(1) Register showing the number of Books of Accounts lodged by the Insolvent/Debtor.	12 years	After the date of the last entry.
(2) Register showing the number of Bank Passbooks or Statements of Account in respect of Bank Account of Insolvents.	12 years	After the date of the last entry.
(D) COURT DEPARTMENT		
(1) Copies of assignments, conveyances and other documents executed by the Official Assignee and approved Drafts of such assignments, conveyances and other documents.	6 years	From the date of execution.
(2) copies of particulars and conditions of sale of properties of Insolvents sold by the Official Assignee along with the original Agreement of Purchase.	6 years	From the date of Sale.
(3) File containing statements made under Rule 83 of Bombay Insolvency Rules, 1910 by Debtors.	6 years	From the date of last statement.
Cash and Accounts Department		

TOP

(1) Register of Government Securities purchased and sold by the Reserve Bank of India on behalf of the Official Assignee	6 years	After all securities mentioned therein have been sold.
(2) Register showing Government Securities to the credit of different estates.	6 years	After all securities mentioned therein have been sold.
(3) General Receipt Book in respect of moneys received by the Official Assignee in different estates.	6 years	From the date of the last receipt.
(4) Counterfoil Cheque Books of Personal Ledger Account of Official Assignee with the Reserve Bank of India	6 years	After the date of the last Counterfoil.
(5) File of correspondence with the reserve Bank of India in Connection with the Investment of Insolvents' Funds.	6 years	From the date of the last letter.
(6) Ledger showing commission and fees earned by the Official Assignee in different estates and credited to Government every month.	6 years	From the date of the last entry.
(7) Challan File	6 years	From the date of the last entry.
(8) Register showing distribution of interest earned on Government Securities in different estates.	6 years	From the date of the last entry.

TOP

(9) Registers showing particulars of uncashed cheques drawn by Official Assignee in favour of parties and cheques drawn in favour of Official Assignee by parties but dishonoured.	6 years	From the date of the last entry.
(10) Register showing particulars of Registered Letters addressed to the Official Assignee or addressed to the Insolvents and Re-directed to the Official Assignee by the Postal Authorities.	6 years	From the date of the last entry.
Claim and Dividend Department		
(1) File of copies of Scheme of 6 years Composition or Scheme of and Papers relating thereto.	6 years	After sanction of last Scheme of Composition or Scheme of Arrangement mentioned therein.
(2) Register of Query Sheets issued in different estates.	6 years	From the date of the last entry.
(3) Register showing particulars of Disclaimer of Tenancies and Leases.	6 years	From the date of the last entry.
(4) The Books of Certificate of Posting.	6 years	From the date of the last entry.
(5) File containing Postal receipts relating to Dividend Warrants sent by Registered Post Acknowledgment Due.	6 years	From the date of the last Postal Receipt.
(6) File containing Postal acknowledgments relating to Dividend Warrants sent by Registered Post	6 years	From the date of the last Postal Receipt.

TOP

(7) File containing Notices sent to Creditors for lodging claims but returned by the Returned Letter Office.	6 years	From the date of return of the last of such Notices from the Returned Officer.
Outstanding Department		
(1) Register of payments made by Insolvents for the benefit of Creditors.	6 years	After all the insolvencies mentioned therein are disposed of either by annulment of Orders of Adjudication or by Insolvents obtaining discharge.
(2) Register of movable or immovable properties of insolvents.	6 years	After all the Properties mentioned therein are realised.
(3) Register of Sale of movable and immovable properties of insolvents.	6 years	After all the properties mentioned therein are sold.
(4) Register of decrees passed against Insolvents and in favour of official Assignee.	6 years	After the surviving Decree is satisfied.
(5) Copies of Schedules of Assets and Liabilities filed by Insolvents.	6 years	After insolvencies are either annulled or Insolvents are granted Discharge.
(6) Register showing rents recovered by Official Assignee in different estates	6 years	From the date of the last entry.
(7) Register containing Reports of Official Assignee's Representatives regarding taking possession of Insolvents' Properties.	6 years	From the date of the last report.

TOP

Record Department		
(1) File of List of Books of Account etc., lodged by the Insolvents.	6 years	After all the insolvencies mentioned therein have either been annulled or the Insolvents therein concerned have obtained discharge.
(2) books of Account and Bank Books etc., deposited by the Insolvents.	6 years	From the date of the Order of annulment or Order of discharge.
Despatch and Filing Department		
(1) Despatch Book	6 years	From the date of the last entry.
(2) Books of certificate of Posting.	6 years	From the date of the last entry.
(3) Register showing particulars of all outgoing letters.	6 years	From the date of the last entry.
(4) Register showing particulars of all outgoing letters sent by Ordinary Post.	6 years	From the date of the last entry.
(5) Register showing particulars of incoming letters.	6 years	From the date of the last entry.
(6) correspondence File of each insolvency.	6 years	From the date of the Insolvent's discharge or from the date of the Order of Annulment or date of dismissal of Insolvency Petition.

TOP

(E) COURT DEPARTMENT		
(1) Register containing carbon copies of Statement made under Rule 83 of the Bombay Insolvency Rules, 1910 by Debtors.	3 years	From the date of the last carbon copy
(2) Register showing dates fixed for Public Examination of Insolvents.	3 years	From the date of the last entry.
(3) Register showing details of *Rule Nisi* and Warrants issued against Insolvents.	3 years	From the date of the last entry.
(4) Register showing dates fixed for hearing of Insolvents' Applications for Discharge.	3 years	From the date of the last entry.
Cash and Accounts Department		
(1) Receipt Book of Fees in respect of inspection or production of documents or for furnishing certified copies thereof.	3 years	From the date of the last receipt.
(2) receipt Book of Fees received for issuing Certificates under Rule 84 of the Bombay Insolvency Rules 1910.	3 years	From the date of the last receipt.
(3) Receipt Book of Fees received for issue of Certificates under Rules 92, 93 and 125 of the Bombay Insolvency Rules, 1910	3 years	From the date of the last receipt.

TOP

(4) Rough Cash Book Daily Receipts.	3 years	From the date of the last entry.
(5) Register showing particulars of Registered letters sent by Official Assignee and returned by Returned Letter Office	3 years	From the date of the last entry.
Claim and Dividend Department		
(1) File containing copies of Advertisements of Official Assignee's Intention to declare Dividends.	3 years	From the date of the last Advertisement.
(2) Rough Register of Claims.	3 years	From the date of the last entry.
(3) Register showing the number of Notices sent to Creditors to lodge the claims.	3 years	From the date of the last entry.
(4) Register showing the number of Dividend Warrants sent to Creditors.	3 years	From the date of the last entry.
Outstanding Department		
(1) Register of Shares and Debentures belonging to Insolvents.	3 years	After all the shares and Debentures are realised.
(2) Rent Receipt Book.	3 years	From the date of the last receipt.
(3) Register showing particulars of Dividend Warrants received by Official Assignee on Shares standing in the names of Insolvents.	3 years	From the date of the last entry.

TOP

(4) Sale Slip Book.	3 years	From the date of the last sale slip
Record Department		
Register showing particulars of Books of Account etc., withdrawn by Insolvents upon annulment of Insolvency.	3 years	From the date of the last entry
Despatch Department-		
(1) Register of Memos regarding Letters sent by Registered Post.	3 years	From the date of the last entry.
(2) Register of Public Examination Notices sent to Creditors.	3 years	From the date of the last entry.
(F) Court Department		
(1) Counterfoils of Certificates issued under Rule 92 of the Bombay Insolvency Rules, 1910	1 years	From the date of the last certificate.
(2) Counterfoils of Certificates issued under Rule 93 of the Bombay Insolvency Rules, 1910	1 years	From the date of the last certificate.
Cash and Accounts Department		
Temporary Receipt Book	1 years	From the date of the last receipt.
Claim and Dividend Department		
Diaries of meetings fixed before the Official Assignee, Deputy Official Assignee and 1st	1 years	From the date of the last entry.

TOP

Assistant to Official Assignee.		
Outstanding Department		
Diaries Meeting fixed before the Official Assignee, Deputy Official Assignee.	1 years	From the date of the last entry.
Record Department		
(1) Muster Roll of Insolvents.	1 years	From the date of the last entry.
(2) Register Showing Insolvents Books of Account etc., produced before the Sales Tax and Income Tax Officers.	1 years	From the date of the last entry.
(3) Register Showing Certified copies furnished to parties.	1 years	From the date of the last entry.
(4) Register of Documents put in by Official Assignee as Exhibits in Different Courts.	1 years	After all the Exhibits mentioned in the Register are withdrawn.
Despatch Department		
Register showing number of Files in each Insolvency	1 years	After all files mentioned therein are destroyed.
Typing Department		
Note Books of Stenographers.	1 years	After completion of book.
GENERAL PROVISION		

TOP

All Register, Books and papers not otherwise provided for by these Rules.	6 years	

49. Special order for preservation or destruction- Notwithstanding anything herein contained, the Chief Justice may, for any reason, direct that any of the above papers and books be destroyed either earlier or later than the time prescribed by the above rules.

The Chief Justice may direct that any book or document not here in above mentioned may be destroyed after such time as he may think fit.

50. (1) Preparation of list of papers and books proposed to be destroyed- The Official Assignee shall, in the month of March every year, prepare a list of papers and books which are proposed to be destroyed.

(2) Notice to be put up- one month before the date fixed for the destruction of records, a notice along with the list prepared under sub-rule (1) shall be put up on the notice board in the office of the Official Assignee to the effect that it is proposed to destroy the papers and books mentioned in the said list in accordance with the rules for the destruction of records.

(3) Application for withdrawal of documents- Any party desiring to withdraw any document produced by him may apply to the Official Assignee for its withdrawal.
The application shall be made within three weeks from the date of the notice mentioned in sub-rule (2). If no application is made within such time the documents shall be destroyed in accordance with these rules.

51. Records to be destroyed in Summer Vacation. Disposal of destroyed records.— The destruction of records shall ordinarily be carried out in the Summer Vacation each year. The destroyed record shall be disposed of in accordance with the Orders issued by Government from time to time.

RULES FOR THE PRESERVATION AND DESTRUCTION OF RECORDS OF THE OFFICE OF THE COURT RECEIVER

52. Records to be kept in two parts.—The Office of the Court receiver shall maintain records in two parts namely (i) Part I consisting of office records forming part of suit proceedings and (ii) Part II consisting of office records not forming part of suit proceeding.

TOP

The entire record shall be preserved and maintained by a person in charge of the same, who shall be called "the Record Keeper"

53. Forwarding of suit records to Records Keeper with list thereof.—In case of records falling under part I persons attending to suits and/or matter shall at the end of each quarter ending 31st March, 30th June, 30th September and 31st December or as soon thereafter as may be convenient prepare lists of suits and/or matters in which the Court Receiver has been discharged and accounts closed during the preceding quarter and shall forward the said lists to the Records Keeper. The Record Keeper shall maintain a Register of such lists in the manner provided hereinafter.

54. Forwarding of other records to Records Keeper with list thereof.—In the case of records falling under part II, the person in charge of the department concerned shall at the end of each quarter as aforesaid or as soon thereafter as may be convenient, forward to the Record Keeper duly arranged the records no longer required by the department together with a list thereof.

55. Arrangement of records by Record Keeper.—The Record-Keeper shall, on receipt of the records, of part I according to the year in which it is due for destruction and the record of part II in the following manner **:-**

(a) The records which are required to be preserved permanently shall be marked and classified as Class 'A'.

(b) The records which are required to be preserved for 30 years shall be marked and classified as Class 'B'.

(c) The records which are required to be preserved for 12 years shall be marked and classified as Class 'C'.

(d) The records which are required to be preserved for 6 years shall be marked and classified as Class 'D'

(e) The records which are required to be preserved for 3 years shall be marked and classified as Class 'E'

(f) The records which are required to be preserved for 1 year shall be marked and classified as Class 'F'.

TOP

56. Verification of record.— On receipt of the records, the Record- Keeper shall verify whether the records received by him correspond with those entered in the list submitted.

57. Preservation of records in the Record Room.—The said records shall be kept in the Record room in cup-boards or on racks and all precautions shall be taken to ensure that the records are not destroyed by white ants, insects, etc. Any damage noticed in this respect shall be immediately brought to the notice of the Court Receiver.

Each cup-board and rack and shall be numbered. Each shelf of the cup-and rack shall also be numbered.

The records falling under part I shall be arranged year-wise according to the year in which it is due for destruction and the record falling under part II shall be arranged under Classes 'A', 'B', 'C', 'D','E' and 'F' as the case may be.

58. Record Keeper to maintain Registers.— The Record-Keeper shall maintain two Registers, one for records falling under Part I and the other for record falling under Part II in the forms given below showing the particulars of records receiving and their disposal**:-**

Register of Part I Records							
Serial No.	No. of Suit and /or matter	Date when the Court Receiver is discharged	Date when the accounts are closed Room	Date of receipt in the Record shelf	No. of cupboard and	Date when due for destruction	Date when actually destroyed
1	2	3	4	5	6	7	8

Register of Part II Records					
Serial No.	Date of last entry in the book	Date of receipt in the Record Room	No. of cupboard and shelf	Date when due for destruction	Date when actually destroyed
1	4	5	6	7	8

TOP

59. Test inspection of record in the Record Room. — A test inspection of the Record kept in the Record Room shall be made at the end of each quarter by the Chief Superintendent. A note of the inspection shall be made and submitted to the Court Receiver.

60. Period of preservation of records. — The papers and registers hereunder mentioned shall be preserved for the periods specified in this rule. On the expiry of the respective periods or as soon thereafter as may be convenient, they shall be destroyed.

PART I

PAPERS FORMING PART OF SUIT PROCEEDINGS

(A) The following shall be preserved for 12 years from the date of closing of accounts in suits and/or matters:—

(i) Copies of orders appointing Receiver together with copies of pleadings affidavits, Notices of Motion, etc.
(ii) Copies of orders discharging the Receiver.
(iii) Copies of other orders of the Court Received in the matters.
(iv) Reports of the Court Receiver and the Judges' orders thereon.
(v) Notes of Meeting.
(vi) Correspondence and miscellaneous papers in suits.
(vii) Vouchers in suits.
(viii) Certificate of passing of accounts by the Commissioner for Taking Accounts.
(ix) Indemnities and Agreements in favour of Court Receiver.

(B) The following shall be preserved for 1 year from the date of closing of accounts in suits and/or matters:—

Books of account, papers, files, etc. belonging to parties.

PART II

PAPERS NOT FORMING PART OF SUIT PROCEEDINGS

Class 'A' : To be preserved permanently

(a) Accounts Department. Office Ledger [formerly known as Suit Ledger No. 1]

TOP

Class 'B ' : To be preserved for 30 years from the date of last entry

(a) Rent Department.

Rent Ledgers.

(b) Accounts Department.

Suit Ledgers.

(c) Administration Department

(i) Receivership Register.

(ii) Register of Valuables.

Class 'C': To be preserved for 12 years from the date of last entry, except in the case of documents mentioned in item [e]

(a) Accounts Department-

(i) Cash Books.

(ii) Transfer Entry Book.

(iii) Register of Advances.

(iv) Counterfoils of Cheque Books.

(v) Pass Books of Banks.

(vi) Register of Bills received from Contractors, Plumbers and Architects.

(b) Accounts Filing Department-

Register of filing accounts before the Commissioner for Taking Accounts.

(c) Municipal and Local Authorities Department-

Property Tax Register.

(d) Income-tax and Sales-tax Department-

(i) Register of Income-tax payments.

(ii) Register of Compulsory Deposits.

(iii) Register of Compulsory Deposit Pass Books.

(e) Shares Securities Insurance and Investment Department-

(To be preserved for 12 years after all the documents, title deeds or securities mentioned therein are returned or after all the fixed deposits have matured).

(i) Register of Shares and Securities.

(ii) Register of Insurance.

(iii) Register of Fixed Deposits.

(iv) Summary of Fixed Deposits.

(f) Record Department (Books of account, etc., belonging to parties)-

(i) Key Register.

TOP

(ii) Index Register of Record Room.

Class 'D' : To be preserved for 6years from the date of last entry, except in the case of documents mentioned in item (c)-

(a) Rent Department-

(i) Rent Collectors Recovery Register.

(ii) File of Remittance Reports of Rent Collectors.

(iii) Summary of Remittance Register

(iv) Rent Scroll Book.

(v) Person-wise Register of Rent Receipt B9pks.

(vi) Register of Distress Warrants.

(vii) Register of suits filed in Small Causes Court.

(b) Accounts Department-

(i) Counterfoils of Receipts.

(ii) Royalty Cards arid Royalty Card Register.

(iii) Clearance Register of Court Receiver's costs, charges and expenses.

(iv) File of Final Statements of Accounts.

(v) Stock Account of Cheque Books.

(vi) Stock Account of Receipt Books.

(c) Shares, Securities, Insurances and Investment Department- (To be preserved for 6 years, from the date of expiry.) Policy Documents.

(d) Municipal and Local Authorities Department-

(i) Register of Electric Bills.

(ii) Register of Municipal Notices.

(e) Administration Department-

All Registers, books and papers not otherwise provided for by these Rules.

(f) Record Department (Books of account, etc. belonging to parties.)

(i) Outward Key Register.

(ii) Register of Account Books.

Class 'E': To be preserved for 3 years from the date of last entry-

(a) Rent Department-

(i) Rent Collectors' Remuneration Register.

(ii) Statements in Form No. 8 of Rent Department Manual.

(iii) Statements in Form No. 9 of Rent Department Manual.

(iv) Recovery Register for Electricity Charges.

TOP

(v) Recovery Register for Water Charges.

(vi) Wages Book for Malis and Sweepers.

(viii) Counterfoils of Rent Bill Books.

(b) Accounts Department-

(i) Bank Accounts Reconciliation Register.

(ii) Watchmen's Wages Register.

(iii) Challan File.

(iv) Watchmen's Register.

(c) Receiving and Despatch Department-

(i) Stamp Account Register.

(ii) Inward and Outward Register for ordinary letters.

(iii) Inward Register for Registered Letters.

(d) Municipal and Local Authorities Department-

(i) Register of Tenants' Complaints.

(ii) Register of Architects.

(iii) Register of Plumbers.

(e) Record Department (Books of Account, etc., belonging to parties)-

(i) Register of Inspection of Records.

(ii) Register of production of Records.

(f) Administration Department-

Stock Register of Stationary.

Class 'F' : To be preserved for one year from the date of last entry-

(a) Receiving and Despatch Department-

(i) Register of Cheques received.

(ii) Register of persons attending to suits.

(iii) Peons Delivery Books.

61. Special order for preservation or destruction.—Notwithstanding anything herein contained, the Chief Justice may, for any reason direct that any of the papers and books be destroyed either earlier or later than the time prescribed by the above rules.

The Chief Justice may direct that any book or document not herein above mentioned

TOP

may be destroyed after such time as he may think fit.

62. Preparation of list of records which are proposed to be destroyed—The Record Keeper shall, in the month of March every year, prepare a list of records which are proposed to be destroyed. The list shall be approved by an Officer to be appointed by the Court Receiver for this purpose.

63. Record due for destruction to be kept separate.—The Record which is due for destruction in any year shall be taken out and kept on separate racks until it is destroyed.

64. Records to be destroyed in Summer Vacation.—Disposal of destroyed records. The destruction of records shall ordinarily be carried out in the Summer Vacation each year. The destroyed record shall be disposed of in accordance with the orders issued by Government from time to time.

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TOP

APPENDIX IV

RULES FRAMED BY THE HIGH COURT OF JUDICATURE AT BOMBAY FOR THE PARSI CHIEF MATRIMONIAL COURT AT BOMBAY

1. Definitions- In these rules-

(a) "The Act" means the Parsi Marriage and Divorce Act, 1936 (Act III of 1936) ;

(b) "The Court" means the Parsi Chief Matrimonial Court at Bombay;

(c) "The Judge" means the Judge appointed under section 19 of the Parsi Marriage and Divorce Act, 1936;

(d) "The Code" means the Code of Civil Procedure, 1908.

2. Procedure.—All proceedings of the Court under the Act shall be held before the Judge appointed under section 19 of the Act and shall be regulated by the provisions of the Code, save in so far as such provisions may be varied or modified by these rules.

3. Appointment of Registrar.—The Chief Justice of the High Court at Bombay shall appoint a person a 'Registrar' of the Court to perform the ministerial functions of the Court.

4. Verification of plaints etc.—All plaints, written statements, counterclaims, replies, applications, petitions, answers affidavits and other documents under the Act or under these Rules shall be verified, within the local limits of the Court's jurisdiction, before the Registrar or before the Master or one of the Assistant Masters, or Associates on the Original Side of the High Court or before the Deputy Registrar or Assistant Registrar on the Appellate Side of the High Court, and elsewhere in India before a Court or an officer specified in section 139 of the Code.

5. Vakalatnama or appearance to be filed –

(a) Where a party is represented by an Advocate, the Advocate shall file a vakalatnama.

(b) Where a party appears in person, he shall file an appearance stating that he appears in person.

TOP

INSTITUTION OF THE SUIT

Plaint

6. Plaint –

(1) The plaint and the documents annexed thereto shall be typed, cyclostyled or printed with double spacing between the lines in the English language on durable foolscap paper with an inner margin of about four centimeters wide.

(2) The following documents shall be annexed to the plaint, viz. (i) list of documents on which the plaintiff relies and (ii) exhibits or copies of exhibits. If an exhibit is in a language other than English, neither the original nor a copy thereof shall be annexed, but an official translation of such exhibit shall be annexed to the plaint. The pages of the plaint with all its annexures shall he numbered serially. An index shall be prepared of the plaint and its annexures.

(3) Exhibits annexed to the plaint shall be marked separately and not collectively. Every exhibit shall commence on a new page and shall bear a separate mark in serial order, such as Ex. "A", Ex. **"B"** and so on. Reference to the exhibit mark shall be given in the margin of the plaint where the particular annexure is referred to.

(4) The plaint with its annexures shall be stitched together bookwise in the following order, viz. (i) index, (ii) plaint (iii) Vakalatnama (iv) list of documents on which the plaintiff relies and (iv) exhibits or copies of exhibits.

(5) The dates and amounts mentioned in the plaint shall be expressed in figures and sums of money in rupees and paise. When Indian dates are given, the corresponding English date shall also be added.

(6) The plaint shall be divided into paragraphs numbered consecutively and shall contain the particulars required by Order VII, Rules 1 to 8 of the Code.

(7) Every alteration, interlineation and erasure in the plaint shall be authenticated by the initials of the officer before whom it is declared.

TOP

7. Averments in the plaint.—The plaint shall state clearly the acts or omissions complained of, giving particulars as regards time and place wherever possible, and shall also aver all facts as are necessary to make the suit maintainable and to bring it within the time allowed by law. The plaint shall also state the facts showing how the Court has jurisdiction to try the suit.

8. Certified copies of decree or order in certain cases to be filed with plaint.—Where a plaintiff sues for divorce on the ground mentioned in clause (h) or (i) of section 32 of the Act, he or she shall file with the plaint a certified copy of the decree or order for judicial separation, or the decree for restitution of conjugal rights, or the order for separate maintenance, as the case may be, on which he or she relies.

9. Leave of the Court to sue-

(1) Leave of the Court to sue, under sub-section (3) of section 29 of the Act, shall be obtained on an ex-parte application made to the Judge (in Chambers) at the time of presentation of the plaint.

(2) The application shall be accompanied by the plaint intended to be filed and shall be supported by an affidavit made by the plaintiff setting out the grounds on which the leave is asked for.

(3) The Judge may grant the leave, or may reject the application and return the plaint for being presented to the proper Court.

(4) A copy of the order granting the leave shall be served on each of the defendants along with the writ of summons.

(5) If the defendant desires to have the leave revoked, he shall apply by Chamber Summons supported by affidavit to the Judge in Chambers. Such application shall be made before filing the written statement or before the time to file the written statement expires, whichever is earlier. Where the defendant has made such application, the order granting leave shall for the purposes of the proviso to section 47 of the Act be taken to have made on the date on which the Chamber Summons is decided.

10. Application dispensing with the joinder of co-defendant .-

(1) In every suit for divorce or judicial separation on the ground of adultery where the plaintiff does not desire or is unable to make the person with whom the adultery is alleged to have been committed a co-defendant to the suit, the plaintiff shall apply

TOP

ex-parte to the Judge (in Chambers) for leave to dispense with the joinder of the co-defendant. Such application shall be accompanied by the plaint intended to be filed.

(2) The Judge may require the plaintiff to serve a copy of such application upon the defendant, and after hearing the parties may pass such orders as he may deem proper.

11. Appointment of next friend or guardian.—Where any party to a proceeding in the Court is under the age of twenty-one years, he or she shall be represented by a 'next friend' or a 'guardian *ad litem'* as the case may be, in the manner prescribed in Order XXXII of the Code.

12. Affidavits to be received and acted on.—In respect of any application under the Act or under these Rules the Judge may receive in evidence and act upon affidavits which are duly sworn and filed.

Writ of Summons

13. Writ of summons to defendant.—

(1) The writ of summons to the defendant shall require the defendant to file his or her written statement with the Registrar within a period of four weeks from the service of the summons or within such extended period as the Judge may on the defendant's application allow, and to serve a copy of the written statement upon each of the other parties to the suit, within the aforesaid period.

(2) The writ summons shall be accompanied by a copy of the plaint.

14. Returnable date of summons.—Unless otherwise ordered, the writ of summons shall be made returnable as follows:-

(1) If the defendant resides within the local limits of the jurisdiction of the Court, within six weeks from the date of the admission of the plaint;

(2) In all other cases, within such time as the Judge may consider sufficient for the transmission; service and return of the summons.

15. (1) Service of Summons. --The writ of summons shall be served in the manner provided for service of summons in Order V of the Code or, where necessary, by registered post.

TOP

(2) **Undertaking by Advocate. --The** writ of summons need not be served on a defendant personally if his or her Advocate undertakes in writing to accept service and to file a vakalatnama.

(3) **Number of writs for such service.** --If such Advocate represents a defendant and a co-defendant, it shall be sufficient to take out and serve only one writ of summons upon him.

Written Statement

16. (1) **Filing and service of written statement.** The defendant shall file with the Registrar a written statement, and shall serve a copy thereof upon each of the other parties to the suit, within the period mentioned in rule 13(1).

(2) **Leave of the Judge when necessary.** No written statement shall be received by the Registrar after such period without the leave of the Judge.

(3) **Default of filing written statement-** In default of filing the written statement and serving a copy thereof within the period aforesaid, the Court may proceed ex-parte on the day appointed for hearing the suit against the defendant:

Provided that such defendant may be allowed to appear and defend at the trial with the leave of the Judge, and upon such terms as to the filing of his or her written statement, furnishing a copy thereof, giving discovery, payment of cost, or any other terms as the Judge may think proper.

Counter-Claim and Reply

17. (1) **Counter-claim by defendant-** Where a defendant in his written statement desires to make a counter claim under section 37 of the Act, such counter-claim shall be distinctly and specifically pleaded.

(2) **Title of counter-claim-** In every such case the defendant shall add to the title of his written statement a further title, similar to the title in a plaint, setting forth his own name as plaintiff to the counter-claim and the name of the plaintiff to the suit as the defendant to the counter-claim.

TOP

(3) Effect of counter-claim- Such counter-claim shall have the same effect as a cross-suit so as to enable the Court to pronounce a final judgment in the same suit, both on the original claim and on the counter-claim; and the provisions herein above made with respect to plaints shall, as far as may be, apply to counter-claims.

18. Judge may disallow counter claim- On the application of any defendant to a counter-claim, made to the Judge (in Chambers) before the hearing, the Judge may, if in his opinion such Counter-claim ought not to be allowed to be tried alongwith the claim in the suit, exclude the counter-claim, and require the defendant to file a fresh suit in respect thereof.

19. Joinder of co-defendant to counter-claim.—where a defendant by his counter-claim alleges adultery on the part of the plaintiff, he or she shall make the person with whom the adultery is alleged to have been committed a co-defendant to the counter-claim; but the provisions of rule 10 shall, with any necessary modifications, apply to such case.

20. Service of summons on co-defendant to counter-claim.—The co-defendant to a counter- claim shall be summoned in the same manner as a defendant to a suit, and the provisions of rule 13 and 15 shall, with any necessary modifications, apply, except that the writ of summons shall be accompanied by a copy of the written statement containing the counter-claim.

21. Reply of the defendant to counter-claim.—Each defendant to the counter-claim shall file and deliver a reply in the same manner and within the same period as in the case of a written statement; and all the provisions with respect to a written statement shall, as far as may be, apply to a reply to a counter-claim.

Alimony *Pendente Lite*

22. Application for alimony *pendente lite-*

(1) In all matrimonial suits under the Act, except suits under section 31, the wife may file with the Registrar an application for alimony pendente lite under section 39 of the Act.

(2) Such application shall be made-

(i) Where the wife is the plaintiff, after service of the writ of summons upon the

TOP

husband, and

(ii) Where the wife is the defendant, after filing her written statement admitting the fact of the marriage.

23. (1) Service of such application on husband.—After an application for alimony has been filed, a copy thereof shall be served forthwith upon the husband, and within fourteen days after such service he shall file his answer thereto, which shall be subscribed and verified in the manner provided in rule 4 and in default the Court may proceed *ex-parte.*

(2) Wife's application to court for order- After the answer of the husband has been filed, the wife may apply to the court to pass an order for alimony pendente lite, provided that the wife shall, four days before she so moves the Court, give notice to the husband or his Advocate of her intention to do so.

24. Varying, modifying or rescinding of order for *alimony pendente lite*-The Judge may, upon application by either party, from time to time vary, modify or rescind any order made on the application for alimony pendente lite in such manner as he may deem proper, if he is satisfied that there is a change in the circumstances of the parties which warrants a variation, modification or rescission. A copy of such application shall be served upon the other party, and the application shall be heard in Chambers after service thereof on such day as the Judge may fix.

Empanelling Delegates

25. Empanelling Delegates.—The Registrar shall write the name of each delegate who shall be summoned on a separate piece of paper or card of equal size, and shall put the same in a box and shall, on the day of the hearing and in the presence of the parties and/or their Advocates, draw from the said box the said pieces of paper or cards indiscriminately one after the other, and the names of the first seven that shall be drawn out and appear and are not challenged or excused shall be deemed duly elected to aid in the trial of a suit.

Application for permanent alimony, custody, etc. on decree

26. Application for permanent alimony, custody of children, etc.

(1) Application for -

(i) permanent alimony;

TOP

(ii) disposal of joint property;

(iii) maintenance, education and custody of children or access to them; and

(iv) settlement of the wife's property for the benefit of the children; shall be made to the Judge as soon as may be convenient after the judgment in the suit has been pronounced.

(2) A copy of the application shall be served upon the husband or such parties likely to be affected by it as the Judge may direct.

(3) The application shall after service thereof be heard in Chambers on such day as the Judge may fix.

27. Stay of application and making of interim orders.—Where an appeal from the decree in the suit is pending, every application under rule 26 shall be stayed until after the disposal of the appeal. But the Judge may, in that event, make such interim orders for alimony or for the maintenance, education and custody of children or access to them as he could have made, if the application had been made pending the hearing of the suit.

28. Power of the Judge to pass Consent Order.—Nothing in rule 26 shall preclude the Judge from passing, at the time of pronouncing judgment in the suit, any consent order with regard to permanent alimony, disposal of joint property, maintenance, education and custody of children or access to them, or settlement of the wife's property for the benefit of the children.

29. Procedure to vary, modify, rescind or suspend order for permanent alimony, etc.—

(1) Where an order for permanent alimony or for maintenance, education and custody of children or access to them has been made, any subsequent application to vary, modify, rescind or suspend such order shall be made by petition.

(2) The petition shall state specifically the change in the circumstances of the parties, or in the position of the children, which renders such petition necessary.

TOP

(3) A certified copy of the order sought to be varied, modified, rescinded or suspended shall be annexed to the petition.

(4) Unless otherwise ordered by the Judge, the petition alongwith the notice of the day fixed for the hearing thereof shall be served on the other side eight clear days before the date of hearing. The affidavit in reply shall be filed and a copy thereof furnished to the petitioner within four days from the service of the notice and the affidavit in rejoinder, if any, shall be filed and copy thereof furnished to the other side within three days thereafter. The petition shall be heard in Chambers.

Decrees and orders "Marriage Counsellor"

[1]**[29-A. Appointment of Marriages Counsellors and their qualification-** There may be attached to the Court one or more Marriages Counsellors with such qualifications as may be determined by the High Court from time to time.

29 B. Reference by Court.—The Court may, at any stage of the suit or appeal or any other proceeding, refer the parties to a Marriage Counsellor for counselling.

29 C. Home Visit and Interviews with parties, etc.—The Counsellor shall be entitled, in the discharge of his duties, to pay visits to the homes of any of the parties. The Counsellor shall also entitled to interview the parties, their relatives, friends and acquaintances or any of them.

29 D. Seeking Information from employer of the parties.—The Counsellor in the discharge of his duties may seek such information as he may deem fit from the employer of any of the parties.

29 E. Confidentiality of statements and notes of Counsellor.—(1) Any statements made before the Counsellor, any information gathered by the Counsellor**,** or any notes prepared by the Counsellor shall be treated as confidential.

(2) Such notes or statements or any materials lying with the Counsellor shall be**,** kept in sealed packets by the Counsellor and shall not form part of evidence before the Court. The

1. Rule 29-A to 29-K inserted vide MGG Pt. IV-C, dated 05.07.1990, p. 952

TOP

same may, however, be used for the purposes of research or education with the permission of the Court on condition that the identities of the parties involved shall be kept concealed.

29-F. Counsellor not to give evidence- The Counsellor shall not be called upon to give evidence in any Court and the parties shall not be permitted to cross-examine him in respect of the information gathered, Statements, notes or report made by the Counsellor. The Court may, however, request the Counsellor to submit to it a report on any aspect of the subject matter before it in order to assist the Court in adjudicating upon the matter before it or any part thereof. Such report shall be ordinarily treated as confidential. The Court may, however, in its discretion, permit the parties to inspect the report or any part thereof and may direct that a copy of the report or any part thereof be supplied to the parties on such request being made by the parties

29-G. Submission after the Report- The parties shall be entitled to make their submissions on the report or part thereof when its inspection is ordered to be given to them.

29-H. Counsellor not to give evidence or to be cross-examined regarding the Report.— The Counsellor shall not be called upon to give evidence and shall not be cross- examined in any Court in respect of the report so made.

29-I. Supervision over custody of children.—The Court may direct the Counsellor to supervise the placement of children in the custody of a party. Thereupon the Counsellor shall be entitled to pay surprise visits to the home where the child resides. In the event of the Counsellor coming to a conclusion that any alteration is required in the arrangement relating to custody of a child or children, the Counsellor shall make a report to the Court in that connection. Thereupon the Court may, after giving notice to the parties to appear before it, pass such orders in that matters as it may deem fit.

29-J. Guidance and assistance to reconciled couples.—The Counsellor may also be directed by the Court to supervise, guide and assist the reconciled couples, even after the matter is disposed of and is no longer pending in the Court.

29-K. Co-habitation during conciliation proceedings- Co-habitation between the parties in the course of conciliation proceeding before the Counsellor or Court shall not be deemed to

TOP

be a condonation of the matrimonial offence.]

Decrees & Orders

30. Drawing up decrees and orders.— (1) A decree or order passed by the Court shall be drawn up by the party initiating the proceedings, unless the Judge passing the decree or order otherwise directs. Such party shall lodge a draft of the decree or order with the Registrar within a period of 10 days from the date of the said decree or order and shall apply to fix a meeting to settle the draft. Such party shall forthwith forward copies of the draft to all parties, who appeared at the hearing of the suit or matter. The Registrar shall check the draft and make such alterations in the draft as he may consider necessary and warranted by the directions of the Court. After the draft is checked, the Registrar shall fix a date for settling the draft, but ordinarily not earlier than 10 days after the date of the lodging of the draft. A notice shall be put on the notice board of the Court intimating to the parties the date fixed for settlement of the draft. No other notice shall be given of the date so fixed, except that when a party has appeared in person, the party lodging the draft shall send notice of the meeting to him. Any party desiring to inspect the draft as checked by the Registrar shall be entitled to do so on oral application to the Registrar. The draft shall be finally settled by the Registrar.

(2) If the party whose duty it is to draw up the decree or order does not lodge the draft with the Registrar within 10 days from the date of the decree or order, then it shall be open to any other party to the proceeding to draw up and lodge such decree or order. Thereafter the procedure prescribed in sub-rule (1) shall be followed.

(3) In case the party initiating the proceedings is a party in person, the decree or order shall at his request be drawn up by the Registrar. The Registrar shall give notice of the draft being ready to the party in person and also to all parties who appeared at the hearing of the suit or matter and shall put up a notice on the notice board of the Court intimating the date fixed for the settlement of the draft. Any party desiring to inspect the draft shall be entitled to do so on an oral application to the Registrar. The draft shall be finally settled by the Registrar.

(4) In case neither party lodge the draft of the decree or order within a period of 20 days from the date of the decree or order, the Registrar shall draw up the same. The Registrar shall give notice of the draft being ready to all parties who appeared at the hearing of the suit or matter, and shall intimate to them, the date fixed for settling the said draft. He shall also put

TOP

up a notice on the notice board of the Court intimating the date fixed for the settlement of the draft. Any party desiring to inspect the draft shall be entitled to do so on an oral application to the Registrar. The draft shall be finally settled by the Registrar.

(5) All decrees and orders shall be engrossed by the Registrar and shall be signed/ by him and sealed with the seal of the Court.

31. Errors how rectified after decrees sealed.—After a decree or order has been sealed, any application to rectify an inaccuracy or clerical or arithmetical error shall be made to the Registrar and he may, in his discretion after notice to the parties when he deems it necessary, rectify such inaccuracy or error. The Registrar may, if he thinks fit, place the matter before the Judge who passed the decree or order or in the event of his absence on leave or retirement, before any other Judge appointed by the Chief Justice in this behalf and the Judge may, in his discretion, after notice to the parties when he deems it necessary, amend the decree or order so as to bring it into conformity with the judgment or rectify such inaccuracy or error.

Appeals

32. Appeals.— Appeals to the High Court of Judicature at Bombay under section 47 of the Act shall be commenced by filing with the Prothonotary and Senior Master of High Court a memorandum of appeal, together with an extra copy thereof.

33. Procedure to be followed.— Except as otherwise provided in these rules, the procedure in respect of appeals from decisions of the High Court in the exercise of its Original Civil Jurisdiction shall, so far as it may be applicable, be followed in respect of appeals under the Act.

34. No security to be taken from the appellant.— The appellant shall not be required to deposit any amount as security for the costs of the respondent in the appeal.

35. Prothonotary and Senior Master to send for record of the case and to return the same on disposal of appeal.—On the filing of the memorandum of appeal, the Prothonotary and Senior Master shall send for the record of the case from the Registrar of the Court and on the disposal of the appeal shall return the record to the Registrar, together with a certified

TOP

copy of the decree or order of the Appellate Court.

Registration of Divorces, etc.

36. Registration of divorce, etc.—The Registrar shall send a certified copy of every decree for divorce, nullity or dissolution of marriage to the Registrar of Marriages of the place at which the marriage is registered. The said certified copy shall be sent as soon as possible after the expiration of three months from the date of the decree. If, however, an appeal is filed against the decree, the Registrar shall send the said certified copy together with a certified copy of the decree of the Appellate Court soon after such copy is received from the Appellate Court.

Forms

37. Forms.— The forms contained in Schedule I to these rules with such variations as the circumstances of each case may require shall be used for all pleadings and proceedings under the Act.

Fees, Costs and Taxation

38. Fees, Costs, etc.— The fees set forth in the Table of Fees in Schedule II to these rules shall believed and allowed in cases tried under the Act, unless the Judge otherwise directs.

TOP

SCHEDULE I TO APPENDIX IV

(PARSI CHIEF MATRIMONIAL COURT)

Form No. 1

Plaint in a suit for divorce.

IN THE PARSI CHIEF MATRIMONIAL COURT AT BOMBAY

SUIT NO. OF 20

……..Plaintiff

versus

……..Defendant.

The Plaintiff abovenamed states as follows :

1. The plaintiff was on the ……..day of ……..20……Lawfully married to ……the defendant at ……..
2. After his said marriage the plaintiff lived and cohabited with his wife at …….. and at …… and the plaintiff and his said wife have had issue of their marriage namely…….
3. On the ….. day of ……20 ….. and on other days between that day and the …… day of …… 20 ….. the defendant committed adultery with …… at ……

(here mention place or places)

4. There is no collusion between the plaintiff and the defendant and …. Or either of them in respect of the suit.
5. The plaintiff has not condoned the act or omission of the defendant set out in paragraph …….. nor has the plaintiff connived at or been accessory to the said act or omission.
6. There has been no unnecessary or improper delay in instituting the suit.
7. The defendant resides (or the defendant has left India and the plaintiff and the defendant last resided together) at …… within the jurisdiction of this Honorable Court.

TOP

The plaintiff therefore prays that ……

(here state the relief sought)

Note:- If the plaintiff does not desire to make the person with whom adultery is alleged to have been committed a co-defendant, a prayer that the Court may order accordingly should be added.

I ……. The plaintiff abovenamed, solemnly declare that what is stated in paragraphs …… is true to my own Knowledge and that what is stated in the remaining paragraphs ……... is stated on information and belief and I believe the same to be true.

Solemnly declared at Bombay
Aforesaid, this ……. Day
of ……..….20 .

Before me,

TOP

Form No. 2

Plaint in a suit for nullity of marriage.

IN THE PARSI CHIEF MATRIMONIAL COURT AT BOMBAY

SUIT NO. OF 20

...……..Plaintiff

Versus

….……Defendant.

The plaintiff abovenamed states ad follows :

1. The plaintiff, then a spinster, was on the …….. day of …….20…….. married in fact, though not in law, to the defendant then a bachelor, at ……
2. From the said …… day of ……20… until the …….day of ……20 ….. the plaintiff lived with the defendant at diverse places and particularly at … aforesaid.
3. The defendant has never consummated the said pretended marriage by carnal copulation.
4. At the time of the celebration of the plaintiff's said pretended marriage, the defendant was, by reason of his impotence or malformation, legally incompetent to enter into the contract of marriage.
5. There is no collusion between the plaintiff and the defendant with respect to the subject matter of this suit.
6. The plaintiff has not condoned the omission of the defendant set out in paragraph …… Nor has the plaintiff connived at or been accessory to the said omission.
7. There has been no unnecessary or improper delay in instituting the suit.

The plaintiff prays that ……..

(here state the relief sought)

I, ……..…….. the plaintiff abovenamed, solemnly declare that what is stated in paragraphs …….. is true to my own knowledge and that what is stated in the remaining paragraphs …… is stated on information and belief and I believe the same to be true.

Solemnly declared at Bombay
aforesaid, this ……
day of ……20

Before me.

TOP

Form No. 3

Written statement in a suit for nullity of marriage.

IN THE PARSI CHIEF MATRIMONIAL COURT AT BOMBAY

SUIT NO. OF 20

……..…….……Plaintiff

Versus

…….Defendant.

Written statement of the Defendant abovenamed

The Defendant abovenamed states as follows :

The defendant did consummate the marriage between the plaintiff and the defendant solemnized on the ……. day of ……. 20 and the defendant was at the time of the said marriage and from thence upto now has been and still is capable of consummating the said marriage and is willing to submit to medical examination.

The defendant prays that the suit be dismissed.

I, ……. The defendant abovenamed solemnly declare that what is stated in paragraphs …… is true to my own knowledge and that what is stated in the remaining paragraphs …….. is stated on information and belief and I believe the same to be true.

Solemnly declare at Bombay
Aforesaid, this ….. day of ……20

Before me,

TOP

Form No. 4

Petition for alimony.

IN THE PARSI CHIEF MATRIMONIAL COURT AT BOMBAY

SUIT NO. OF 20

SUIT NO. OF 20

……..…….……Plaintiff

Versus

…….Defendant.

and

……..…….……Plaintiff

Versus

…….Defendant.

The Petition of the Petitioner abovenamed to this Honorable Court Sheweth:

1. That the respondent (defendant) abovenamed is employed in the firm of ……. and is earning a salary of Rs. ……. per month.

   OR

   That the respondent is carrying on business in the name of …….. or is a partner in the firm of …….. and his income is about Rs. ……. per annum.

2. That the respondent owns shares of the following companies (give particulars) of the total value of Rs. …….. and receives dividends of about Rs. ……. per annum.

3. That the respondent has other property, movable and immovable (give particulars) which yield to him an annual income of about Rs. ……..

   The petitioner therefore prays that the respondent may be ordered to pay to the Petitioner by way of alimony pendent lite (or permanent alimony) Rs. ……. Per month or such sum as to this Honourable Court may seem just.

I, …… the petitioner abovenamed, swear in the name of God that what is stated in paragraphs……

Solemnly affirm

is true to my own knowledge and that what is stated in remaining paragraphs …….. is stated on information and belief and I believe the same to be true.

Sworn _____ at Bombay

Solemnly affirmed

TOP

aforesaid, this ……..

day of …….. 20

Before me,

TOP

SCHEDULE II

TABLES OF FEES

The following fees only shall be levied and allowed in cases tried under Act III of 1936:-

		Rs. P.
1.	For every plaint..	As prescribed from time to time by the law in force relating to Court Fees.
2.	For every other document..	0.50
3.	For issuing every summons and subpoena..	1.00
4.	For drawing and engrossing every decree or order ..	5.00
5.	For sealing every document ..	1.00
6.	For administering oath ..	1.00
7.	For serving process ..	0.50
8.	For attendance of Advocate on the day of presenting plaint or written statement..	45.00
	For attendance at settlement of issues (if not settled at the hearing of the suit) or hearing of the any contested motion-	
9.	For Advocate ..	60.00
	For attendance at the hearing of the suit on the first day -	
10.	For Advocate ..	75.00
	For attendance for each succeeding day -	
11.	For Advocate ..	60.00
12.	For taxing bill of costs ..	4.00
13.	Costs of execution ..	45.00
14.	For allowing search in proceedings ..	45.00
	1.00	
	Charges for professional witnesses -	
15.	Brigade Surgeon ..	100.00
16.	Surgeon Major ..	75.00

TOP

17.	Surgeon ..	50.00
18.	Assistant Surgeon over 20 years' standing ..	50.00
19.	Assistant Surgeon under 20 years' standing ..	25.00

Costs of necessary translations will also be allowed.

Costs between party and party will be taxed by the Registrar of Court.

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TOP

APPENDIX V

RULES OF THE HIGH COURT AT BOMBAY UNDER THE MAHARASHTRA VEXATIOUS LITIGATION (PREVENTION) ACT, 1971

1. These Rules may be cited as "The Maharashtra Vexatious Litigation (Prevention) Rules, 1976".
2. They shall come into force on the 1st day of December 1976.
3. In these Rules unless the context or subject matter otherwise requires-
   (i) 'The Act' means the Maharashtra Vexatious Litigation (Prevention) Acts, 1971.
   (ii) 'Order' means an order passed under Section 2(i) of the Act.
4. Every application by the Advocate general under Section 2(i) shall describe the Advocate General as applicant and the person against whom the application is made as opponent.
5. The application shall state the full name of the opponent, his occupation, address and the proceedings instituted by him, Civil or Criminal and the Courts in which they were or are instituted together with their results, if any.
6. The application shall be signed and verified by the Advocate General.
7. The application shall be filed on the Appellate Side of the Bombay High Court and shall be heard by a Division Bench.
8. The application shall be accompanied by three sets of copies of the application and other documents for the use of the Court and for opponent.
9. The application shall be placed before the Division Bench for orders.
10. Unless the Court considers otherwise notice of the application should be served on the opponent calling upon the opponent to show cause.
11. The person so served may appear in person or through an Advocate and show cause against the proposed action.
12. On consideration of the material placed before the Court, the Court may either reject the application or pass an order in terms of Section 2(i) of the Act.
13. The order passed under Section 2(i) shall be published as prescribed by the Act and shall be circulated to such Courts as the Court may direct.
14. The Judge or a Magistrate who receives a copy of an order made under Sub-section (i) of Section 2 shall enter it in a Register to be kept in that behalf.

TOP

15. A person against whom an order under Section 2(i) is made may apply for leave to institute or continue the proceedings-

(i) to a Judge on the Original Side if the proceedings are to be instituted and continued on the Original Side of the High Court;

(ii) to the High Court on the Appellate Side, if the proceedings are to be instituted or continued in any other Court in Greater Bombay;

(iii) to the District Judge of the District in which the Civil Proceedings are to be instituted or continued; and

(iv) to the Sessions Judge in whose division Criminal proceedings are to be instituted or continued.

16. (a) Every such application for leave to institute a proceeding, shall be accompanied by the requisite number of the copies of the application for leave and of the intended plaint or a proceeding and copies of the documents on which he wants to rely, for the use of the Court and the opponent.

(b) Every such application shall make the Advocate General and the person against whom the proceeding is to be instituted or continued as co-opponent.

(c) The person making an application under sub-section (i) shall pay the necessary process fees.

(d) The notices of the application shall be served on the opponent at the costs of the applicant.

17. (a) All such applications to the District and Sessions Judge shall be treated as Miscellaneous Applications, and the Rules prescribed for the disposal of such application shall *mutatis mutandis* apply to such proceedings.

(b) However, such applications made to the High Court, whether on the Original or Appellate Side, shall be treated as Civil Applications and be disposed of after such inquiry as may be found necessary.

18. Every order of costs passed on such Civil Applications, whether on the Original or Appellate Side of the High Court, shall be executable as a decree in the manner provided in the Code of Civil Procedure.

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TOP

APPENDIX VI

RULES FRAMED BY THE HIGH COURT UNDER SECTION 34(1) OF THE ADVOCATES ACT, 1961

1. (a) In these rules unless there is anything repugnant in the subject or context, the word 'Advocate' shall include a firm of Advocates.

(b) The word 'Court' shall mean the High Court of Judicature at Bombay and the Courts subordinate thereto.

2. **(1)** No Advocate shall act for any person in any Court unless he has been appointed for the purpose by such person by a Vakalatnama in the form annexed hereto 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 :

Provided that if in a suit or proceeding pending on 31st December 1976 in any Court an Attorney or firm of Attorneys have filed an appearance and the said attorney or in the case of a firm, all the partners thereof are also enrolled as Advocates of the Bar Council of Maharashtra, the said Attorney or firm, shall continue to represent the party for whom the appearance was filed unless proper discharge is obtained and shall be allowed to act, appear and plead in the matter as an Advocate for the party without filing a Vakalatnama.

(2) No Advocate who has been engaged for the purpose of pleading only shall plead on behalf of any party unless he has filed in Court a memorandum of appearance signed by himself and stating (a) the names of the parties to the suit, (b) the name of the party for whom he appears and (c) the name of the person by whom he is authorised to appear:

Provided that nothing in sub-rule (2) shall apply to any Advocate engaged to plead on behalf of any party by another Advocate who has been duly appointed to act in Court on behalf of such party:

Provided that nothing in this rule shall apply to a Public Prosecutor or an Advocate who has been requested by the Court to assist the Court amicus curiae in any case or a proceeding or who has been appointed at the expense of the State to defend the accused person in a criminal proceeding:

Provided further that when any Advocate appears on behalf of Government or any

TOP

public servant suing or sued in his official capacity it shall be sufficient for him to file a memorandum of appearance.

(3) An Advocate who is not on the roll of Advocates of the Bar Council of Maharashtra shall not appear or act in any Court, unless he files a Vakalatnama along with an Advocate who is on the roll of the Bar Council of Maharashtra and who is ordinarily practising in such Court.

(4) (a) In all cases in which a party is represented by more than one Advocate, all of them may file a joint appointment.

(b) In such cases where the lawyer engaged is not able to sign the Vakalatnama in token of his acceptance at the time of filing it, the same may be signed by another lawyer on his behalf provided that the former acknowledges and ratifies the acceptance of the Vakalatnama within two weeks from the date of its being filed in the Court by making an endorsement on the Vakalatnama to that effect.

(5) The acceptance of an appointment on behalf of a firm of Advocates shall be indicated by a partner affixing his own signature as a partner on behalf of the firm.

(6) An Advocate at the time of acceptance of his appointment shall also endorse on it his address, which address shall be regarded as one for service within the meaning of Rule 5 of Order 3 of the Code of Civil Procedure, 1908:

Provided that where more Advocates than one accept the appointment, it shall be sufficient for one of them to endorse his address, which address shall be regarded as one for service within the meaning of Rule 5 of Order 3, of the Code of Civil Procedure.

(6-A) When an Advocate instructed by a party to act or appear in a matter has not been able to secure a Vakalatnama in the prescribed form duly signed by the client, he may file a written statement signed by him stating that he has instructions form or on behalf of his client to act or appear in the matter and also undertaking to file within a week a Vakalatnama in the prescribed form, duly signed, by the party.

7. **(1)** An Advocate shall be bound to appear in Court on any day, which, by notice duly given or in accordance with the practice of the Court, is fixed for the hearing of a

TOP

proceeding in which he is appointed by the party.

(2) Where an Advocate appointed by a party in any of the proceedings is prevented by reasonable cause from appearing and conducting the proceedings at any hearing, he may instruct another Advocate to appear for him at that hearing.

(3) Where an Advocate is not able to instruct another Advocate on account of some sudden or unexpected cause, he may intimate or cause to be intimated in writing, to the Court, the cause that prevented him from appearing and conducting the proceedings and thereupon the hearing of the proceedings may be stayed for such period not exceeding four days as the Court may think proper in order to enable the Advocate to make necessary arrangements:

Provided that the hearing of the proceeding may not be stayed where there is on record another Advocate who is not similarly prevented and who is duly empowered to act, appear or plead on behalf of the party.

(4) The provisions of sub-rule (3) above shall not apply to criminal cases, Special Civil Applications and matters especially fixed for hearing or expedited by the order of the Court, in the High Court in its Appellate jurisdiction. The said provisions shall also not apply to Miscellaneous Petitions and matters especially fixed for hearing or expedited by the order of the Court, in the High Court in its Original Jurisdiction.

(5) In uncontested suits or matters where consent order is to be obtained, an Advocate may hold a brief of another Advocate provided that the Court at any time may require the presence of the Advocate to whom the brief really belongs.

8. **(1)** In Civil Cases, the appointment of an Advocate shall be deemed to be in force to the extent provided in that behalf by Rule 4 of Order 3 of the Code of Civil Procedure, 1908.

(2) In Criminal Cases, the appointment of an Advocate, shall be deemed to be in force until determined with the leave of the Court by writing signed by the client or the Advocate, as the case may be and filed in Court or until the client or the Advocate dies, or until all proceedings in the case are ended so far as regards the client.

(3) For the purpose of sub-rule (2), a case shall be deemed to mean every kind of enquiry, trial or proceeding before a Criminal Court whether instituted on a police report or otherwise the following shall be deemed to be proceedings in the case :-

(i) an application for bail or reduction, enhancement or cancellation of bail in the case;

(ii) an application for transfer of the case from one Court to another;

TOP

(iii) an application for stay of the case pending disposal of a civil proceeding in respect of the same transaction out of which the case arises;

(iv) an application for suspension, postponement or stay of execution of the order or sentence passed in the case;

(v) an application for the return, restoration or restitution of the property as per the order of disposal of property passed in the case;

(vi) an application for leave to appeal against an order of acquittal passed in the case;

(vii) any appeal or application for revision against any order or sentence passed in the case;

(viii) a reference arising out of the case;

(ix) an application for review of an order or sentence passed in the case or in an appeal, reference or revision arising out of the case;

(x) an application for making concurrent sentences awarded in the case or in an appeal, reference, revision or review arising out of the case;

(xi) an application relating to or incidental to or arising in or out of any appeal, reference, revision or review arising in or out of the case (including an application for leave to appeal to the Supreme Court);

(xii) any application or act for obtaining copies of documents or for the return of articles or documents produced or filed in the case or in any of the proceedings mentioned here in before;

(xiii) any application or act for obtaining the withdrawal or the refund or payment of or out of the moneys paid or deposited in the Court in connection with the case or any of the proceedings mentioned hereinbefore (including moneys paid or deposited for covering the costs of the preparation, printing and transmission of the transcript record of appeal to the Supreme Court);

(xiv) any application for the refund of or out of the moneys paid or recovered as fine or for the return, restitution or restoration of the property forfeited or confiscated in the case or in any appeal, reference, revision or review arising out of the case as per final orders passed in that behalf;

(xv) any application for expunging remarks or observations on the record of or made in the judgment in the case or any appeal, reference, revision or review arising out of the cases, and

TOP

(xvi) any application or proceeding for sanctioning prosecution under Chapter XXXV of the Code of Criminal Procedure, 1898 *(now Chapter XXVI of the Code of Criminal Procedure, 1973), or any appeal or revision arising from and out of any order passed in such an application or proceeding :

Provided that where the venue of the case or the proceedings is shifted form one Court (Subordinate or otherwise) to another, the Advocate filing a Vakalatnama referred to in sub-rules (1) and (2) above shall not be bound to appear, act or plead in the latter Court unless he files a memorandum stating that he has instructions form his client to appear, act and/or plead in that Court.

(4) When an Advocate who has filed a Vakalatnama for a party wishes to withdraw his appearance, he shall serve a written notice of his intention to do so on his client at least seven days in advance of the case coming up for hearing before the Court. Leave of the Court to withdraw appearance may also be applied for if the client has instructed the Advocate to that effect.

The Advocate shall file a Note in writing requesting the Court for permission to withdraw appearance and shall also file along with the Note the letter of the client instructing him to withdraw his appearance or a copy of the intimation given to the client as above together with its written acknowledgment by the client. The Court if satisfied that no inconvenience is likely to be caused to the Court or the client, may permit the Advocate to withdraw his appearance and while permitting the Advocate to do so may also impose such terms and conditions as it may deem proper either in public interest or in the interest of the parties.

(5) A party who wishes to discharge the Advocate engaged by him may apply to the Court for an order of discharge by following a similar procedure and the Court if it is satisfied may pass orders discharging the Advocate and while doing so impose such terms and conditions as it may deem proper.

9. An Advocate who has advised in connection with the institution of a suit, appeal or other proceeding or has drawn up pleadings or has during the progress of any suit, appeal or other proceedings appeared, acted or pleaded for a party, shall not act, appear or plead in the suit, appeal or other proceeding or in an appeal or application for revision arising therefrom or in any matter connected therewith for the opposite party.

TOP

[1][**9A.** Regulating an advocate's appearance in courts : An advocate involved in any of the following acts may be barred from appearing before the High Court and any court, tribunal or authority subordinate to it :—

(a) Accepting money in the name of a Judge or on the pretext of influencing the judge in the matter of any court proceeding ;

(b) Tampering with any court record or proceedings ;

(c) Impeding orderly functioning of court or conduct of court proceedings;

(d) Committing any act which tends to scandalize or lower the authority of any court or interfere with or obstruct the administration of justice or behaving unprofessionally and in an unbecoming manner ;

(e) depicting unruly behaviour and conducting unprofessionally or in a manner unbecoming of an officer of the Court and ;

(f) Appearing in court under the influence of liquor or other intoxicating substance.

Explanation 1 : Without prejudice to the generality of clause (c) above, any strike resorted to in any court or abstention from work in court by way of protest by an advocate or group of advocates or any bar association shall be deemed to be an act which impedes orderly functioning of court or conduct of court proceedings and the advocate or advocates indulging in such strike or abstention shall be liable to be proceeded with under this Rule.

Explanation 2 : Without prejudice to the generality of clause (d) above, acts of (i) browbeating and /or abusing the Judge, or (ii) circulating or publishing any material concerning the conduct of the Judge in any judicial proceeding or otherwise which tends to shake the confidence reposed by the public in court, shall be treated as falling within that clause ;

9B. Power to take action.— (1) Where any act listed in the foregoing Rule is committed by an advocate before the High Court or in relation to the proceedings before it or concerning its Judges, the High Court shall have the power to bar the advocate from appearing before the High Court and all courts, tribunals and authorities subordinate to it.

1. Rule 9A to 9E Inserted by No. P.3602/2018., dated 25th October 2018.

TOP

(2) Where any act listed in the foregoing Rule is committed by an advocate before the Court of Principal District Judge or in relation to the proceedings before it or concerning it, the Principal District Judge shall have the power to bar him from appearing before any court within such District.

(3) Where any act listed in the foregoing Rule is committed by an advocate before any subordinate court, the court concerned shall submit a report to the Principal District Judge within whose jurisdiction such court is situate and on receipt of such report, the Principal District Judge shall have the power to bar him from appearing before any court within such District.

(4) Whenever any advocate is barred by the Principal District Judge either under Sub- Rule (2)- or (3) above, a report shall be made by the Principal District Judge to the ChiefJustice.

9C. Procedure to be followed.-(l) Where any act listed in Rule 9A is committed by an advocate, in the presence of hearing of the Chief Justice or the Principal District Judge, the Chief Justice or the Principal District Judge, as the case may be, shall make a note of the act and simultaneously, for reasons to be recorded in writing, prohibit the advocate concerned from appearing before any court, authority or tribunal in the State or any court within the district, as the case may be, pending any inquiry under Sub-Rule (3) below.

(2) Where any act listed in Rule 9A is committed by an advocate in the presence or hearing of a Judge of the High Court, the Judge shall make a report to the Chief Justice for proceeding under Sub-Rule (3) below and simultaneously, for reasons to be recorded, prohibit the advocate concerned from appearing before him pending any inquiry under Sub-Rule (3).

(3) In any case, whether covered by Sub-Rule (1) or (2) above, or otherwise, the High Court or the Court of Principal District Judge, as the case may be, shall, before making an order under Rule 9B issue to such advocate a notice returnable before it, requiring the advocate to appear before the Chief Justice or his designate, or the Principal District Judge, as the case may be, and show cause. Such notice, so far as may be practicable, shall be served personally on such advocate.

TOP

(4) The Chief Justice or his designate, or the Principal District Judge, as the case may be, shall complete the inquiry in pursuance of the notice referred to in Sub-Rule (3) above and pass an order, if any, under Rule 9B within a period of eight weeks of service of such notice.

(5) If the matters alleged in the notice referred to in Sub-Rule (3) above concern any act in respect of which a note or a report referred to in Sub-Rules (1) or (2) of this Rule or Sub-Rule (3) of Rule 9B above has been made, the note or the report, as the case may be, shall be treated as conclusive of the facts stated therein and the only cause to be shown by the advocate concerned shall be to the measure of the disciplinary action called for on such facts.

9D. The order passed under Rule 9B or sub-rule (1) and (2) of Rule 9C above shall be final and shall not be questioned in any proceedings in any court.

9E. Power to prohibit appearance in addition to other powers.—The powers exercisable under Rules 9A to 9D above shall be in addition to, and not in derogation of, the powers of the Court under the Contempt of Courts Act, 1971, Indian Penal Code, 1860 and the Code of Criminal Procedure, 1973 or any other law for the time being in force bearing on the subject matter of these Rules.]

10. **(a)** The appointment of a firm of Advocates may be accepted by any partner on behalf of the firm.

(b) No firm of Advocates shall be entitled to appear, act or plead in any Court unless all the partners thereof are entitled to appear, act or plead in such court.

(c) The name of the firm of Advocates may contain the name(s) of the persons who were or are partners of the firm of Advocates but of no others :

Provided that where the partners of a firm of Advocates were practising as a firm of Attorneys or Solicitors prior to 1st January 1977, the name of the firm of Advocates may be or may contain the name of such firm of Attorneys or Solicitors or contain the name(s) of one or more persons who were partners of such firm of Attorneys or Solicitors.

(d) The names of all the partners of the firm of Advocates shall be recorded with the Prothonotary and Senior Master, the Registrar of the High Court and /or District Judge,

TOP

as the case may be, and the State Bar Council, and the names of all the partners shall also be set out in all professional communications issued by the partners or the firm.

(e) The firm of Advocates shall notify to the Prothonotary and Senior Master, Registrar of the High Court and/or the District Judge, as the case may be, and the State Bar Council any change in the composition of the firm or the fact of its dissolution takes place.

(f) Every partner of the firm of Advocates shall be bound to disclose the names of all the partners of the firm whenever called upon to do so by the Prothonotary and Senior Master, the Registrar of the High Court, the District Judge, the State Bar Council, any Court or any party for or against whom the firm or any partner thereof has filed the appointment or memorandum of appearance.

(g) In every case where a partner of a firm of Advocate signs any document or writing on behalf of the firm shall do so in the name of the firm and shall authenticate the same by affixing his own signature as partner.

(h) Neither the firm of Advocates nor any partner thereof shall advise a party or appear, act or plead on behalf of a party in any matter or proceedings where the opposite party is represented by any other partner of the firm or by the firm itself.

11. No Advocate shall be permitted to file an appointment or Memorandum appearance in any proceeding in which another Advocate is already on record for the same party save with the consent of the former Advocate on record or the leave of the Court, unless the former Advocate has ceased to practice or has by reason of infirmity of mind or body, or otherwise become unable to continue to act.

12. No Advocate who has been debarred or suspended or whose name has been struck off the Roll of Advocates shall be permitted to act as a recognised agent of any party within the meaning of Order III of the Code of Civil Procedure 1908.

13. No Advocate who has been found guilty of contempt of Court shall appear, at, or plead in any Court unless he has purged himself of contempt.

The Court may in its discretion permit an Advocate who has been found guilty of contempt of Court to appear, act or plead without purging himself of contempt of Court.

14. Deleted.

TOP

VAKALATNAMA

In the Court of

Civil Suit/Criminal Case

Appeal/Revision etc. No.

of 20 .

Plaintiff/Appellant

Petitioner/Complainant etc.

versus

Defendant/Respondent

Opponent/Accused etc.

Amount of Claim in Suit etc.

I, ……inhabitant of the

……..…….. in the said matter hereby appoint

…… to appear and act for me as my Advocate/sin the said matter.

Witness may hand this……..……. day of …… 20

(Signed)

…….....

Witness :

Accepted :

Signature of Advocate/s.

Filed in court on ….....

TOP

THE AMENDED LETTERS PATENT OF THE HIGH COURT

LETTERS PATENT of the High Court of Judicature of the Presidency of Bombay, bearing date the Twenty-eight day of December, in the Twenty-nine year of the reign of Victoria, in the year of our Lord One thousand eight hundred and sixty-five.

Recital of Act, 24 and 25-Vict., Cap. .104. - VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith. To all to whom these presents shall come greeting: Whereas by an Act of Parliament passed in the Twenty-fourth and Twenty-fifth Years of our Reign, intituled "An Act for establishing High Courts of Judicature in India", it was amongst other things, enacted that it should be lawful for Her Majesty, by Letters Patent under the Great Seal of the United Kingdom to erect and establish a High Court of Judicature at Bombay, for the Presidency of Bombay aforesaid, and that such High Court should consist of a Chief Justice and as many judges not exceeding Fifteen, as Her Majesty might, from time to time, think fit to appoint, who should be selected from among persons qualified as in the said Act is declared:

Provided always that the persons who, at the time of establishment of such High Court, were Judges of the Supreme Court of Judicature and permanent Judges of the Court of Sudder Dewanee Adalut or Sudder Foujdaree Adalut of the same Presidency, should be and become Judges of such High Court without further appointment for that purpose and, the Chief Justice of such Supreme Court should become the Chief Justice of such High Court and that upon the establishment of such High Court as aforesaid the Supreme Court and the Court of Sudder Dewanee Adalut and Sudder Foujdaree Adalut at Bombay, in the said Presidency, should be abolished:

And that the High Court of Judicature so to be established should have and exercise all such civil, criminal, admiralty and vice-admiralty, testamentary, intestate and matrimonial jurisdiction, original and appellate, and all such powers and authority, for and in relation to the administration of justice in the said Presidency, as Her Majesty might, by such Letters Patent as aforesaid, grant and direct; subject however to such directions and limitations, as to the exercise of original civil and criminal jurisdiction, beyond the limits of the Presidency

TOP

town, as might be prescribed thereby; and save as by such Letters Patent might be otherwise directed, and subject, and without prejudice to the legislative powers in relation to the matter aforesaid of the Governor General of India in Council, the High Court so to be established should have and exercise all jurisdiction, and every power and authority whatsoever, in any manner vested in any of the Courts in the same Presidency abolished under the said Act, at the time of the abolition of such last mentioned Courts.

And whereas We did, upon full consideration of the premises, think fit to erect and establish, and by Our Letters Patent under the Great Seal of the United Kingdom of Great Britain and Ireland, bearing date at Westminster the Twenty-sixth day of June in the Twenty-fifth Year of Our Reign, in the year of our Lord One thousand Eight hundred and Sixty-two did accordingly, for Us, Our heirs and successors, erect and establish at Bombay, for the Presidency of Bombay aforesaid, a High Court of Judicature, which should be called High Court of Judicature at Bombay, and did thereby constitute the said Court to be a Court of Record; and whereas We did thereby appoint and ordain that the said High Court of Judicature at Bombay should, until further or other provision should be made by Us or Our heirs and successors, in that behalf, in accordance with the recited Act, consists of a Chief Justice and six Judges, and did thereby constitute and appoint certain persons, being respectively qualified as in the said Act is declared, to be Judges of the said High Court, and whereas on the Sixth day of July One thousand Eight hundred and Sixty three We did, in accordance with the provisions of the said recited Act, increase the number of the Judges of the said Court to a Chief Justice and seven Judges;

And whereas by the said recited Act it is declared lawful for Her Majesty, at any time within three years after the establishment of the said High Court, by Her Letters Patent, to revoke all or such parts or provisions as Her Majesty might think fit of the Letters Patent by which such Court was established, and to grant and make such other powers and provisions as Her Majesty might think fit, and as might have been granted or make by such first Letters Patent;

Titles. - And whereas by the Act of the Twenty-eight of Our Reign, chapter fifteen entitled, "An Act to extend the Term for granting fresh Letters Patent for the High Courts in India, and to make further provision respecting the territorial Jurisdiction of the said Courts",the time for issuing fresh Letters Patent has been extended to the First of January One thousand Eight hundred and Sixty-six;

TOP

And whereas, in order to make further provisions respecting the constitution by Her Letters Patents, to revoke all or such parts or provisions as Her Majesty of the said High Court, and the administration of justice thereby, it is expedient that the said Letters Patent, dated the Twenty-sixth of June One thousand Eight hundred and Sixty- two should be revoked, and that some of the powers and provisions thereby granted and made should be granted and made with amendments and additional powers and provisions by fresh Letters Patent;

1. Revocation of Letters Patent of 1802. - Now know ye that We, upon full consideration of the premises, and of Our especial grace, certain knowledge, and mere motion, have thought fit to revoke, and do by these presents (from and after the date of the publication thereof, as hereinafter provided and subject to the provisions thereof) revoke our said Letters Patent of the Twenty-sixth of June One thousand Eight hundred and Sixty-two except so far as the Letters Patent of the Fourth year of His Majesty King George the Fourth dated the Eighth day of December One thousand Eight hundred and Twenty-three, establishing a Supreme Court of Judicature at Bombay, were revoked or determined thereby.

2. High Court at Bombay to be continued. - And We do by these presents grant, direct, and ordain that notwithstanding the revocation of the said Letters Patent of the Twenty-sixth of June One thousand Eight hundred and Sixty-two, the High Court of Judicature, called the High Court of Judicature at Bombay, shall be and continue as from the time of the original erection and establishment thereof, the High Court of Judicature at Bombay for the Presidency of Bombay aforesaid, and that the said Court shall be and continue a Court of Record and that all proceedings commenced in the said High Court, prior to the date of the publication of these Letters Patent, shall be continued and depend in the said High Court as if they had commenced in the said High Court after the date of such publication, and that all rules and orders in force in the said High Court immediately before the date of the publication of these Letters Patent shall continue in force, except so far as the same are altered hereby until the same are altered by competent authority.

3. Judges of the said High Court to be continued. - And We do hereby appoint and ordain, that the person and persons who shall immediately before the date of the publication of these Letters Patent be the Chief Justice and Judges, or acting Chief Justice or Judges, if any, of the said High Court of Judicature at Bombay, shall continue to be the Chief Justice

TOP

and Judges or acting Chief Justice or Judges, of the said High Court, until further or other provision shall be made by Us or Our heirs and successors in that behalf, in accordance with the said recited Act for establishing High Courts of Judicature in India.

4. Clerks etc., of the said High Court to be continued. - And We do hereby appoint and ordain that every clerk and ministerial officer of the said High Court of Judicature at Bombay, appointed by virtue of the said Letters Patent of the Twenty- sixth of June One thousand Eight hundred and Sixty-two, shall continue to hold and enjoy his office and employment, with the salary thereunto annexed, until he be removed from such office and employment, and he shall be subject to the like power of removal, regulations and provisions as if he were appointed by virtue of these Letters Patent.

5. Declaration to be made by Judges. - And We do hereby ordain that the Chief Justice and every Judge who shall be from time to time appointed to the said High Court of Judicature at Bombay, previously to entering upon the execution of the duties of his office, shall make and subscribe the following declaration before such authority or person as the Governor in Council may commission to receive it :

"I A ..B., appointed Chief Justice [1][or a Judge] of the High Court of Judicature at Bombay, do solemnly declare that I will faithfully perform the duties of my office to the best of my ability, knowledge and judgment."

6. And we do hereby grant, ordain, and appoint that the said High Court of Judicature at Bombay shall have, and use occasion may arise, a seal bearing a device and impression of the Asoka Capital within an exergue or label surrounding the same, with the following inscriptions at convenient places, namely, "THE SEAL OF THE HIGH COURT AT BOMBAY", and "Satyameva Jayate" in Devanagari script. And We do further grant, ordain and appoint that the said seal shall be delivered to and kept in the custody of the Chief Justice, and in case of vacancy of the office of Chief Justice, or during any absence of the Chief Justice, the same shall be delivered over and kept in the custody of the person appointed to act as Chief Justice, under the provisions of section 7 of the said recited Act and We do further grant, ordain and appoint, that whensover it shall happen that the office of Chief Justice or of the Judge to whom the custody of the said seal be committed, shall be

1. Amended by the High Courts (Seals) Act, VII of 1950

TOP

vacant, the said High Court shall be and is hereby authorized and empowered to demand, seize, and take the said seal from any person or persons whomsoever, by what ways and means so ever the same may have come to his, her or their possession.

7. Writs, etc., to issue in name of the Crown and under Seal. – And We do hereby further grant, ordain, and appoint that all writs, summons, precepts, rules, orders, and other mandatory process to be used, issued or awarded by the said High Court of Judicature at Bombay, shall run and be in the name and style of Us, or of Our heirs and successors and shall be sealed with the Seal of said High Court.

[1]**8. Appointment of Officers.** - And We do hereby authorize and empower the Chief Justice of the said High Court of Judicature at Bombay from time to time, as occasion may require and subject to any rules and restrictions which may be prescribed by the Governor in Council, to appoint so many and such clerks and other ministerial officers as shall be found necessary for the administration of justice, and the due execution of all the powers and authorities granted and committed to the said High Court by these Our Letters Patent. And it is Our further will and pleasure, and We do hereby, for us, Our heirs and successors, give, grant, direct, and appoint that all and every officers and clerks to be appointed as aforesaid shall have and receive respectively such reasonable salaries as the Chief Justice shall from time to time appoint for each office and place respectively, and as the Governor in Council, subject to the control of the Governor-General in Council, shall approve of : Provided always, and it is Our will and pleasure, that all and every officers and clerks to be appointed as aforesaid, shall be resident within the limits of the jurisdiction of the said Court so long as they shall hold their respective offices; but this proviso shall not interfere with or prejudice the right of any officer or clerk to avail himself of leave of absence under any rules prescribed by the Governor in Council and to absent himself from the said limits during the term of such leave, in accordance with the said rule.

Admission of Advocates, Vakeels and Attorneys.

9. Powers of High Court in admitting Advocates, Vakeels and Attorneys. - And We do hereby authorize and empower, the said High Court of Judicature at Bombay to approve, admit, and enrol such and so many Advocates, Vakeels, and Attorneys as to the said High

1. Amended by Letters Patent, Dt. 11-03-1919

TOP

Court, shall seem meet; and such Advocates, Vakeels, and Attorneys shall be and are hereby authorised to appear for the suitors of the said High Court, and to plead or to act, or to plead and act for the said suitors according as the said High Court may by its rules and directions determine, and subject to such rules and directions.

10. In making rules for the qualification etc. of Advocates, Vakeels and Attorneys. - And We do hereby ordain that the said High Court of Judicature at Bombay shall have power to make rules for the qualification and admission of proper persons to be Advocates, Vakeels and Attorneys-at-Law of the said High Court, and shall be empowered to remove or to suspend from practice, on reasonable cause, the said Advocates, Vakeels or Attorney-at-Law; and no person whatsoever but such Advocates, Vakeels or Attorneys shall be allowed to act or to plead for, or on behalf of, any suitor in the said High Court, except that any suitor shall be allowed to appear, plead or act on his own behalf, or on behalf of a co-suitor.

Civil Jurisdiction of the High Court.

11. Local limits of the ordinary original jurisdiction of the High Court. - And We do hereby ordain that the said High Court of Judicature at Bombay shall have and exercise ordinary original civil jurisdiction within such local limits as may from time to time, be declared and prescribed by any law made by the Governor in Council, and until some local limits shall be so declared and prescribed, within the limits of the local jurisdiction of the said High Court of Bombay at the date of the publication of these presents, and the ordinary original civil jurisdiction of the said High Court shall not extend beyond the limits for the time being declared and prescribed as the local limits of such jurisdiction.

[1]**12. Original jurisdiction as to suits. -** And We do further ordain that the said High Court of Judicature at Bombay, in the exercise of its ordinary original civil jurisdiction, shall be empowered to receive, try, and determine suits of every description, if, in the case of suits for land or other immovable property such land or property shall be situated, or in all other cases if the cause of action shall have arisen, either wholly, or in case the leave of the Court shall have been first obtained, in part, within the local limits of the ordinary original jurisdiction of the said High Court or if the defendant at the time of the commencement of the suit shall dwell or carry on business, or personally work for gain, within such limits;

1. Amended by the Bombay High Court Letters Patents (Amendment) Act, XLI of1948.

TOP

except that the said High Court shall not have such original jurisdiction in cases falling within the jurisdiction of the Small Cause Court at Bombay, or the Bombay City Civil Court.

13. Extraordinary original civil jurisdiction. - And We do further ordain that the said High Court of Judicature at Bombay shall have power to remove and to try and determine, as a Court of extraordinary original jurisdiction, any suit being or falling within the jurisdiction of any Court; whether within or without the Presidency of Bombay, subject to its superintendence, when the said High Court shall think proper to do so, either on the agreement of the parties to that effect or for purposes of justice, the reasons for so doing being recorded on the Proceedings of said High Court.

14. Joinder of several causes of action. - And We do further ordain that where plaintiff has several causes of action against defendant, such causes of action not being for land or other immovable property, and the said High Court shall have original jurisdiction in respect of one of such causes of action, it shall be lawful for the said High Court to call on the defendant to show cause why the several causes of action should not be joined together in one suit, and to make such order for trial of the same as to the said High Court shall seem fit.

[1]**15. Appeal to the High Court from Judges of the Court.** - And We do further ordain that an appeal shall lie to the said High Court of Judicature at Bombay from the judgment *(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 said High Court, and not being an order made in the exercise of revisional jurisdiction and not being a sentence or order passed or made in the exercise of the power of superintendence under the provisions of section 107 of the Government of India Act, or in the exercise of criminal jurisdiction) of one Judge of the said High Court or one Judge of any Division Court, pursuant to section 108 of the Government of India Act, and that notwithstanding anything hereinbefore provided an appeal shall lie to the said High Court from a judgment of one Judge of the said High Court or one Judge of any Division Court, pursuant to section 108 of the Government of India Act, made on or after the first day of February one thousand nine hundred and twenty-nine in the exercise of appellate jurisdiction in respect of a decree or order made in the exercise of appellate jurisdiction by a Court

1. Amended by Letters Patents. dated 11-3-1919.9-12-1927 and12-12-1928.

TOP

subject to the superintendence of the said High Court, where the Judge who passed the judgment declares that the case is a fit one for appeal; but that the right of appeal from order judgments of Judges of the said High Court or of such Division Court shall be to Us, Our heirs or successors in Our or Their Privy Council, as hereinafter provided.

16. Appeal from Courts in the Provinces – And we do further ordain that the said High Court of Judicature at Bombay shall be a Court of appeal from the Civil Courts of the Presidency of Bombay and from all other Courts subject to its superintendence, and shall exercise appellate jurisdiction in such cases as are subject to appeal to the said High Court by virtue of any laws or regulations now in force.

17. Jurisdiction as to infants and lunatics - And we do further ordain that the said High Court of Judicature at Bombay shall have the like power and authority with respect to the persons and estate of infants, idiots and lunatics, within the Bombay Presidency, as that which was vested in the said High court immediately before the publication of these presents.

18. Provisions with respect to the insolvent Court. - And we do further ordain that the High Court for Relief of Insolvent Debtors at Bombay shall be held before one of the Judges of the said Court of Judicature at Bombay, and the said High Court and any such Judge thereof, shall have and exercise, within the Presidency of Bombay, such powers and authorities with respect to original and appellate jurisdiction and otherwise as are constituted by the laws relating to insolvent debtors in India.

Law to be administered by the High Court.

19. By the High Court in the exercise of ordinary original civil jurisdiction.- And we do further ordain that with respect to the law or equity to be applied to each case coming before the said High Court of Judicature at Bombay in the exercise of its ordinary original civil jurisdiction, such law or equity shall be the law or equity which would have been applied by the said High Court to such case if these Letters Patent had not issued.

20. In the exercise of extra-ordinary original civil jurisdiction- And we do further ordain that with respect to the law or equity and rule of good conscience to be applied to each case coming before the said High Court of Judicature at Bombay in the exercise of its

TOP

extraordinary original civil jurisdiction such law or equity and rule of good conscience shall be the law or equity and rule of good conscience which would have been applied to such case by any local Court having jurisdiction therein.

21. By the High Court in the exercise of appellate jurisdiction - And we do further ordain that with respect to the law or equity and rule of good conscience to be applied by the said High Court of Judicature at Bombay to each case coming before it in the exercise of its appellate jurisdiction such law or equity and rule of good conscience shall be the law or equity and rule of good conscience with the Court in which the proceedings in such case were originally instituted ought to have applied to such case .

Criminal Jurisdiction.

[1]**22. Ordinary original jurisdiction of the High Court. -** And we do further ordain that the said High Court of Judicature at Bombay shall have ordinary original criminal jurisdiction in respect of all persons beyond the local limits of its ordinary original civil jurisdiction over whom the said High Court of Judicature at Bombay shall have criminal jurisdiction at the date of the publication of these presents.

23. Jurisdiction as to persons. - And we do further ordain that the said High Court of Judicature at Bombay, in the exercise of its ordinary original criminal jurisdiction, shall be empowered to try all persons brought before it in due course of law.

24. Extra-ordinary original criminal jurisdiction. - And we do further ordain that the said High Court of Judicature at Bombay shall have extraordinary original criminal jurisdiction over all persons residing in places within the jurisdiction of any Court now subject to the superintendence of the said High Court, and shall have authority to try at its discretion any such person brought before it on charges preferred by the Advocate-General, or by any magistrate or other officer specially empowered by the Government in that behalf.

25. No appeal from High Court exercising original jurisdiction. Court may reserve points of law. - And we do further ordain there shall be no appeal to the said High Court of Judicature at Bombay from any sentence or order passed or made in any criminal trial before

1. Amended by the Bombay High Court Letters Patents (Amendment) Act, XLI of1948.

TOP

the Court of original criminal jurisdiction which may be constituted by one or more Judges of the said High Court. But it shall be at the discretion of any such Court to reserve any point or points of law for the opinion of the said High Court.

26. High Court to review on certificate of the Advocate General.- And we do further ordain that on such point or points of law being so reserved as aforesaid, or on its being certificated by the said Advocate General that, in his judgment, there is an error in the decision of a point or points of law decided by the Court of original criminal jurisdiction, or that a point or points of law which has or have been decided by the said Court should be further considered, the said High Court shall have full power and authority to review the case, or such part of it as may be necessary, and finally determine such point or points of law, and thereupon to alter the sentence passed by the Court of original jurisdiction and to pass such judgment and sentence as to the said High Court shall seem right.

27. Appeals from Criminal Courts in the Province. - And We do further ordain that the said High Court of Judicature at Bombay shall be a Court of appeal from the criminal Courts of the Presidency of Bombay and from all other Courts subject to its superintendence, and shall exercise appellate jurisdiction in such cases as are subject to appeal to the said High Court by virtue of any law now in force.

28. Hearing of referred cases and revision of criminal trial. - And We do further ordain that the said High Court of Judicature at Bombay shall be a Court of reference and revision from the criminal Courts subject to its appellate jurisdiction, and shall have power to hear and determine all such cases referred to it by the Sessions Judges or by any other officers now authorized to refer cases to the said High Court, and to revise all such cases tried by any officer or Court possessing criminal jurisdiction as are now subject to reference to, or revision by the said High Court.

29. High Court may direct the transfer of a case from one Court to another. - And We do further ordain that the said High Court shall have power to direct the transfer of any criminal case or appeal from any Court to any other Court of equal or superior jurisdiction, and also to direct the preliminary investigation or trial of any criminal case by any officer or Court otherwise competent to investigate or try it, though such case belongs in ordinary course to the jurisdiction of some other officer or Court.

TOP

30. Offenders to be punished under Indian Penal Code. - And We do further ordain that all persons brought for trial before the said High Court of Judicature at Bombay, either in the exercise of its original jurisdiction, or in the exercise of its jurisdiction as a Court of appeal, reference, or revision charged with any offence for which provision is made by Act No. XLV of 1860, called the "Indian Penal Code", or by any Act amending or excluding the said Act which may have been passed prior to the publication of these presents shall be liable to punishment under the said Act or Acts, and not otherwise.

Exercise of Jurisdiction elsewhere than at the ordinary place of sitting of the High Court.

31. Judges may be authorised to sit in any places by way of circuit or special commission. - And We do further ordain that whenever it shall appear to the Governor in Council convenient that the jurisdiction and power by these Our letters Patent, or by the recited Act vested in the said High Court of Judicature at Bombay should be exercised in any place within the jurisdiction of any Court now subject to the superintendence of the said High Court, other than the usual place of sitting of the said High Court, or at several such places by way of circuit, the proceedings in cases before the said High Court at such place or places shall be regulated by any law relating thereto which has been or may be made by competent legislative authority for India.

Admiralty and Vice-Admiralty Jurisdiction.

32. Civil. - And We do further ordain that the said High Court of Judicature at Bombay shall have and exercise all such civil and maritime jurisdiction as may now be exercised by the said High Court as a Court of Admiralty, or Vice-Admiralty, and also such jurisdiction for the trial and adjudication of prize causes and other maritime questions arising in India, as may now be exercised by the said High Court.

33. Criminal. - And We do further ordain that the said High Court of Judicature at Bombay shall have and exercise all such criminal jurisdiction as may now be exercised by the said

TOP

High Court as a Court of Admiralty, or Vice-Admiralty, or otherwise in connection with maritime matters of prize.

Testamentary and Intestate Jurisdiction.

34. Testamentary and intestate jurisdiction. - And We do further ordain that the said High Court of Judicature at Bombay shall have the like power and authority as that which may now be lawfully exercised by the said High Court in relation to the granting of probates of last wills and testaments and letters of administration of the goods, chattels, credits and all other effects whatsoever, of persons, dying intestate, whether within or without the Presidency of Bombay: Provided always that nothing in these Letters Patent contained shall interfere with the provisions of any law which has been made by competent legislative authority for Indian by which power is given to any other Court to grant such probates and letters of administration.

Matrimonial Jurisdiction.

35. Matrimonial jurisdiction. - And We do further ordain that the said High Court of Judicature at Bombay shall have jurisdiction within the Presidency of Bombay in matters matrimonial between Our subjects professing the Christian religion: Provided always that nothing herein contained shall be held to interfere with the exercise of any jurisdiction in matters matrimonial by any Court not established by Royal Charter within the said Presidency lawfully possessed thereof.

Powers of Single Judges and Division Courts.

[1]**36. Single Judges and Division Courts.** - And We do hereby that any function, which is hereby directed to be performed by the said High Court of Judicature at Bombay in the exercise of its original or appellate jurisdiction, may be performed by any Judge or any Division Court thereof, appointed or constituted for such purpose, in pursuance of section

1. Amended by further Letters Patents, dated the 11-03-1919, and the 09-12-1927.

TOP

One hundred and eight of the Government of India Act, 1915, and if such Division Court is composed of two or more Judges, and the Judges are divided in opinion as to the decision to be given on any point, such point shall be decided according to the opinion of the majority of the Judges, if there shall be a majority, but if the Judges should be equally divided they 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 first heard it.

Civil Procedure.

37. Regulation of Proceedings. - And We do further ordain that it shall be lawful for the said High Court of Judicature at Bombay from time to time to make rules and orders for the purpose of regulating all proceedings in civil cases which may be brought before the said High Court, including proceedings in its Admiralty, Vice- Admiralty, intestate, and matrimonial jurisdiction respectively: Provided always that the said High Court shall be guided in making such rules and orders as far as possible by the provisions of the Code of Civil Procedure, being an Act passed by the Governor General in Council, and being Act No. VIII of 1859, and the provisions of any law which has been made amending or altering the same by competent legislative authority for India.

Criminal Procedure.

38. Regulation of proceedings. - And We do further ordain that the proceedings in all criminal cases which shall be brought before the said High Court of Judicature at Bombay in the exercises of its ordinary original criminal Jurisdiction, and also in all other criminal cases over which the said High Court had jurisdiction immediately before the publication of these presents shall be regulated by the procedure and practice which was in use in the said Court immediately before such publication subject to any law which has been or may be made in relation thereto by competent legislative authority for India and that the proceedings in all other criminal cases shall be regulated by the Code of Criminal Procedure prescribed by an Act passed by the: Governor General in Council, and being Act No. XXV of 1861, or by such further or other laws in relation to criminal procedure as may have been or may be made by such authority as aforesaid.

TOP

Appeals to Privy Council.

39. Power to appeal. - And We do further ordain that any person or persons may appeal to Us. Our heirs and successors, in Our or Their Privy Council, in any matter not being of criminal jurisdiction, from any final judgment, decree, or order of the said High Court of Judicature at Bombay made on appeal, and from any final judgment, decree, or order made in the exercise of original jurisdiction by Judges of the said High Court, or of any Division Court, from which and appeal shall not lie to the said High Court under the provisions contained in the fifteenth clause of these presents: Provided in either case that sum or matter at issue is of the amount or value of not less than 10,000 rupees, or that such judgment, decree, or order shall involve, directly of indirectly, some claim, demand, or question to or respecting property amounting to or of the value of not less than 10,000 rupees, or from any other final judgment, decree, or order made either on appeal or otherwise as aforesaid, when the said High Court shall declare that the case is a fit one for appeal to Us. Our heirs or successors, in Our or Their Privy Council, subject always to such rules and orders as are now in force or may from time to time be made, respecting, appeals to Ourselves in Council from the Courts of the said Presidency, except so far as the said existing rules and orders respectively are hereby varied, and subject also to such further rules and orders as We may, with the advice of Our Privy Council, hereafter make in that behalf.

40. Appeal from interlocutory judgments. - And We further ordain that it shall be lawful for the said High Court of Judicature at Bombay, at its discretion, on the motion, or if the said High Court be not sitting, then for any Judge of the said High Court upon the petition of any party who considers himself aggrieved by any preliminary or interlocutory judgment, decree, order or sentence of the said High Court in any such preceding as aforesaid, not being of criminal jurisdiction, to grant permission to such party to appeal against the same to Us. Our heirs and successors, in Our or Their Privy Council, subject to the same rules, regulations, and limitations as are herein expressed respecting appeals from final judgments, decrees, orders, and sentences.

41. Appeal in criminal cases, etc. - And We do further ordain that from any judgment, order, or sentence of the said High Court of Judicature at Bombay made in the exercise of original criminal jurisdiction, or any criminal case where any point or points of law have been reserved for the opinion of the said High Court in manner hereinbefore provided, by any

TOP

Court which has exercised original jurisdiction, it shall be lawful for the person aggrieved by such judgment, order, or sentence, to appeal to Us. Our heirs or successors, in Council, provided the said High Court shall declare that the case is a fit one for such appeal, and under such conditions as the said High Court may establish or require, subject always to such rules and orders as We may, with the advice of Our Privy Council, hereafter make in that behalf.

42. Rules as to transmission of copies of evidence and other documents. - And We do further ordain that in all cases of appeal made form any judgment, order, sentence, or decree of the said High Court of Judicature at Bombay to Us, Our heirs successors, in Our or Their Privy Council, such High Court shall certify and transmit to Us. Our heirs and successors, in Our or Their Privy Council, a true and correct copy of all evidence, proceedings, judgments, decrees, and orders had or made in such cases appealed, so far as the same have relation to the matters of appeal, such copies to be certified under the seal of the said High Court. And that the said Court shall also certify and transmit to Us, Our heirs and successors, in Our or Their Privy Council a copy of the reasons given by the Judges, of such Court, by any of such Judges, for or against the judgment or determination appealed again. And We do further ordain that the said High Court shall, in all cases of appeal to Us. Our heirs or successors, conform to and execute, or cause to be executed such judgments and orders as We. Our heirs or successors in Our or Their Privy Council, shall think, fit to make in the premises, in such manner as any original judgment, decree, or decretal orders or other order or rule of the said High Court should or might have been executed.

Calls for Records, etc. by the Government

43. High Court to comply with requisition from Government for records, etc. - And it is Our further will and pleasure that the said High Court of Judicature at Bombay shall comply with such requisitions as may be made by the Government, for records, returns, and statements, in such form and manner as such Government may deem proper.

[1]**44. Power of Indian Legislature preserved. -** *And* We do further ordain and declare that the provisions of these Our Letters Patent are subject to the legislative powers of the Governor-General in Legislative Council and also of the Governor- General in Council under

1. Amended by further Letters Patent, dated 11-03-1919.

TOP

section Seventy-one of the Government of India Act, 1915, and also of the Governor-General in cases of emergency under section Seventy-two of that Act and may be in all respects amended and altered thereby.

45. Provisions of former letters Patent inconsistent with these Letters Patent to be void. - And it is Our further will and pleasure that these Letters Patent shall be Published by the Governor in Council and shall come into operation from and after the date of such publication, and that from and after the date on which effect shall have been given to them, so much of he aforesaid Letter Patent granted by His Majesty King George the Fourth as was not revoked or determined by the said Letters Patent of the Twenty-sixth of June One thousand Eight Hundred and Sixty-two, and is consistent, with these Letters Patent, shall cease, determine, and be utterly void to all intents and purposes whatsoever.

IN WITNESS WHEREOF We have caused these Our letters to be made Patent. Witness Ourselves at Westminster, the Twenty-Eight Day of December in the Twenty- ninth year of Our reign.

By Warrant under the Queen's Sign Manual

(Signed) C. ROMILLY,
By order of His Excellency the Governor in Council,

C. GONN
Bombay Castle, 9th April 1866. Secretary to Government

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TOP

Scheme for Appointment of Arbitrators by the Chief Justice of Bombay High Court

Notification No. P-1614/96 dated 6th April, 1996.—In exercise of the powers conferred on the Chief Justice of the High Court of Bombay under sub-section (10) of section 11 of the Arbitration and Conciliation Ordinance, 1996, **I** hereby make the following scheme:—

(1) Short title.—This scheme may be called the Appointment of Arbitrators by the Chief Justice of Bombay High Court Scheme, 1996. It shall came into force with immediate effect.

(2) Submission of request. —The request to the Chief Justice under sub-section (4) or sub-section (5) or sub-section (6) of section 11 shall be made in writing and shall be accompanied by—

(a) the original arbitration agreement or a duly certified copy thereof ;

(b) the names and addresses of the parties to the arbitration agreement ;

(c) the names and addresses of the arbitrators, if any, already appointed ;

(d) the name and address of the person or institution, if any, to whom or which any function has been entrusted by the parties to the arbitration agreement under the appointment procedure agreed upon by them ;

(e) the qualifications required, if any, of the arbitrators by the agreement of the parties ;

(f) a brief written statement describing the general nature of the dispute and the points at issue;

(g) the relief or remedy sought ; and

(h) an affidavit, supported by the relevant documents, to the effect that the condition to be satisfied under sub-section (4) or sub-section (5) or sub-section (6) of section 11, as the case may be, before making the request to the Chief Justice, has been satisfied.

TOP

(3) Authority to deal with the request.—Upon receipt of a request under paragraph 2, the Chief Justice may either deal with the matter entrusted to him or designate my other person or institution for that purpose.

(4) Forwarding of request to designated person or institution. Where the Chief Justice designates any person or institution under paragraph 3, he shall have the request along with the documents mentioned in paragraph 2 forwarded forthwith to such person or institution and also have a notice sent to the parties to the arbitration agreement.

(5) Seeking further information.—The Chief Justice or the person or the institution designated by him under paragraph 3 may seek further information or clarification from the party making the request under this Scheme.

(6) Rejection of request.—Where the request made by any party under paragraph 2 is not in accordance with the provisions of this Scheme, the Chief Justice or the person or the institution designated by him may reject it.

(7) Notice to affected persons.—Subject to the provisions of paragraph 6, the Chief Justice or the person or the institution designated by him shall direct that a notice of the request be given to all the parties to the arbitration agreement and such other person or persons as may seem to him or is likely to be affected by such request to show cause, within the time specified in the notice, why the appointment of the arbitrator or the measure proposed to be taken should not be made or taken and such notice shall be accompanied by copies of all documents referred to in paragraph 2 or, as the case may be, by information or clarification, if any, sought under paragraph 5.

(8) Withdrawal of Authority.—If the Chief Justice, on receipt of a complaint from either party to the arbitration agreement or otherwise, is of opinion that the person or institution designated by him under paragraph 3 has neglected or refused to act or is incapable of acting, he may withdraw the authority given by him to such person or institution and either deal with the request himself or designate another person or institution for that purpose.

TOP

(9) Intimation of action taken on request —The appointment made or measure taken by the Chief Justice or any person or institution designated by him in pursuance of the request under paragraph I shall be communicated in writing to –

(a) the parties to the arbitration agreement ;

(b) the arbitrators, if any, already appointed by the parties to the arbitration agreement ;

(c) the person or the institution referred to in paragraph 2(d),

(d) the arbitrator appointed in pursuance of the request.

(10) Request and communications to be sent to Registrar.—All requests under this Scheme and communications relating thereto which are addressed to the Chief Justice shall be presented to the Registrar of this Court, who shall maintain a separate Register of such requests and communications.

(11) Delivery and receipt of written communications.—The provisions of sub-sections (1) and (2) of section 3 of the Arbitration and Conciliation Ordinance. 1996 shall, so far as may be, apply to all written communications received or sent under this Scheme.

(12) Costs for processing requests.—The party making a request under this Scheme shall, on receipt of notice of demand from :

(a) the Registry of the Court, where the Chief Justice makes the appointment of an arbitrator or takes the necessary measures ; or

(b) the designated person or the institution, as the case may be, where such person or institution makes appointment of arbitrator or takes the necessary measure, pay an amount not less than Rs. 3,000 and not more than Rs.10,000 as may be determined by the Chief Justice, in accordance with the terms of such notice towards the costs involved in processing the request.

(13) Interpretation.—If any question arises with reference to the interpretation of any of the provisions of this Scheme, the question shall be referred to the Chief Justice, whose decision shall be final.

TOP

(14) Power to amend the Scheme.—The Chief Justice may, from time to time, amend by way of addition or variation any provision of this Scheme.

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TOP

THE BOMBAY HIGH COURT PROCESS FEES RULES, 2006

P. No. 1601/2006, dated 2-11-2006.--In exercise of the powers conferred upon it under section 32 of the Bombay Court Fees Act, 1959 the High Court of Judicature at Bombay makes the following rules prescribing fees chargeable for serving and executing processes issued by the High Court and all Civil, Criminal and other Courts subordinate to the High Court.

(1) (a) These rules shall be called "Bombay High Court Process Fees Rules," 2006.

(b) They shall come into force on the date of their publication in *Official Gazette.*

(2) The following fees shall be levied for serving and executing processes issued by the High Court,--

(a) Irrespective of nature and valuation of subject matter of dispute for all type of processes like, summonses, notices, warrants, proclamation, injunction orders, sale notices etc., (other than poundage fees) fees shall be charged at the rate of Rs. 50 for each defendant/respondent/non-applicant or accused.

(b) Such process fee shall be charged and paid at the time of institution of the proceeding. No process fee shall be charged for serving the process again on the same set of defendant/respondents/non-applicants/accused or their legal representatives till the proceeding is disposed of by the Court in which it is instituted.

Notes.—

(i) The fees prescribed are to be charged for each individual ordered to be served with process. When an individual is to be served in more than one capacity e.g. personally and also as guardian of minor or minors, only one set of fee is to be levied. Where process is to be issued for services at more than one place simultaneously against any one individual, an additional fee is to be levied for each place in which process is to be served.

(ii) Where process has to be issued in foreign territory, a sum sufficient to cover the fees in that territory shall be paid.

TOP

(iii) When process is to be served by Registered post, with acknowledgement due, the amount necessary for the same calculated at the prevailing postal rates shall be paid.

(iv) For the service of writ of injunction, the fees to be charged shall be, double the above rates.

(v) In case service by more than one mode, simultaneously is prayed/ ordered, process fee at the rate of Rs. 50 per mode and per defendant/ respondent/non-applicant, shall be levied.

(3) The fees chargeable by all Civil Courts (except the Presidency Small Cause Court, Bombay) shall be as under namely:—

(i) The fee at present levied for serving and executing processes issued by the High Court shall continue to be levied.

(ii) (a) Irrespective of nature and valuation of subject matter of dispute for all types of processes like summonses, notices, warrants, proclamation, injunction order, sale notices etc. fees shall be charged at the rate of Rs. 50 for each defendant/respondent/non-applicant or accused:

Provided that if process by modes more than one, simultaneously is prayed and ordered, process fee at the rate of Rs. 50 per mode per respondent/defendant, non- applicant, shall be levied.

(b) such process fee shall be charged and paid at the time of institution of the proceeding. No process fee shall be charged for serving the process again on the same set of defendants/respondents/non-applicants/accused or their legal representatives till the proceeding is disposed of by the Court in which it is instituted:

Provided that those fees otherwise chargeable for the service of the summons shall not be

TOP

required to be paid where the Court has under Rule 7A of Order XVI of the Code of Civil Procedure, 1908, permitted the service of a summons for the attendance of any person to be effected by a party and where the services of a Bailiffs are not required:

Provided further that where a party desires to avail the services of a special bailiff (vide paragraph 111, Chapter VIII, Civil Manual) for service of execution of a process, he shall be required to pay process fee as for process applied for an ordered to be executed as emergent in addition to the remuneration and the allowances of the bailiff for the period required for serving or executing the process, inclusive of the time occupied for going to and returning from the place at which the process is required to be served or executed, to be calculated in the manner provided in the following sub-paragraph.

(iii) where the remuneration and allowances of special bailiffs are required to be paid by the party under the forgoing sub-clause, the remuneration (inclusive of dearness allowance, compensatory allowance and the house rent allowance) shall be calculated at the actual rates of pay and other all allowances per day or part thereof per bailiff and the travelling and daily allowance to be recovered shall be those admissible to the bailiffs under the rules for the time being in force:

Provided that where the party provides for his own conveyance, no travelling allowance shall be recovered from the party.

(iv) (a) Whenever the remuneration and allowances of special bailiffs are recovered from the parties, additional temporary bailiffs, not exceeding the number of bailiffs whose remuneration and allowances are paid by the parties may be employed by the Presiding Judge for a period not exceeding the period for which the payment is recovered from the parties.

(b) Where such additional temporary bailiffs actually do the work of serving or executing a particular process for which the payment is recovered from the parties, the amount of remuneration and allowances recovered from the parties shall be paid to such additional temporary bailiffs.

TOP

(v) Where a summons or notices to a defendant or respondent is to be served by registered post with acknowledgement due, the process fee levied shall in no case be less than the actual amount required for registration and postage; provided however when a summons or notice is issued by registered post prepaid for acknowledgement, in addition to service through bailiff as provided under Rule 19A of Order V, Civil Procedure Code, no separate process fee shall be recovered from the party for such additional service but only amount required for registration and postage shall be recovered in addition to the process fee levied for service through bailiff.

(vi) With the sanction of the Court any party may pay the conveyance charges by railway or any public conveyance where such mode is available and in such case the process server shall be bound to proceed by such railway or public conveyance.

(vii) For processes applied for or ordered to be executed as emergent, the fee shall be in addition to the ordinary fee, half of the ordinary fee.

(viii) Where one individual is to be served in more than one capacity, e.g. personally and also a guardian of a minor or minors, only one set of fees is to be charged.

(ix) When process issued by a Civil Court other than a Mamlatdar Court is returned unseved and has to be re-issued for service, no further fees shall be charged.

(x) If a warrant has already been issued to arrest a judgment debtor who has failed to pay the decretal amount and who has been ordered to be imprisoned in a civil jail and such warrant of arrest is in force, no further fee is leviable on the order of the committee to jail.

(xi) No fee is to be charged for any process issued by a Court of its own motion.

(xii) No process fee shall be charged on proclamations under section 10 of Regulation VIII of 1827 and notices issued under the provincial Insolvancy Act in the case of an application by a debtor.

TOP

(4) The fees chargeable for serving and executing processes issued by Criminal Courts in the case of offences, other than offences for which Police Officers may arrest without a warrant, shall be under namely:--

(a) Irrespective of the nature and valuation of subject matter of dispute fees for all type of processes like, summonses, notices, warrants, proclamation, injunction orders, sale notices etc., but shall not include poundage fees shall be charged at the rate of Rs. 50 for each defendant/respondent/non-applicant or accused.

(b) Such process fee shall be charged at the time of institution of the proceeding. No process fee shall be charged for serving the process again on the same set of defendants/respondents/non-applicant or their legal representatives till the proceeding is disposed of by the Court in which it is instituted:

Provided that No fees shall be levied on any process issued upon the complaint of any Public Officer acting as such public officer.

(c) The Court may remit the process fees in any case, in whole or in part, whenever the Court is satisfied that the complainant or accused has not means of paying them.

(d) Process fees are leviable from Municipalities in respect of summonses and warrants issued in cases falling under section 263(3) of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Township Act, 1965.

(5) Fees for service of process by any Court subordinate to High Court of Bombay and not specified elsewhere in these rules shall be same as prescribed in rule 3 of these rules.

(6) All the rules made in this behalf from time to time and in force on the date of commencement of these rules shall stand repealed to the extent they are repugnant to these rules.

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TOP

THE BOMBAY HIGH COURT PROCESS FEES REPEAL RULES, 2014

NOTIFICATION

No. P. 1601/2006.—In exercise of the powers conferred upon it under section 32 of the Bombay Court Fees Act, 1959, the High Court of Judicature at Bombay makes the following Rules for repeal of the Bombay High Court Process Fees Rules, 2006 :—

1. (*a*) These Rules shall be called, " The Bombay High Court Process Fees Repeal Rules, 2014 ".

(b) These Rules shall come into force on the date of their publication in the Official Gazette.

2. The Bombay High Court Process Fee Rules, 2006 shall stand repealed w.e.f. the date of publication of " The Bombay High Court Process Fees Repeal Rules, 2014 ", in the Official Gazette.

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TOP

THE BOMBAY HIGH COURT, RIGHT TO INFORMATION (REVISED) RULES, 2009

[1][In exercise of the powers conferred by section 28 of the Right to Information Act, 2005, the Chief Justice of the 1-ligh Court of Judicature at Bombay being the "Competent Authority" makes the following Rules to enforce the provisions of the said Act.]

CHAPTER I
GENERAL

1. Short title, and commencement.--(i) These Rules shall be called the Bombay High Court, Right to Information (Revised) Rules, 2009.

(ii) These Rules shall come into force from the date of their publication in the Official Gazette.

2. Definitions.--(1) In these Rules, unless the context otherwise requires:--

(a) "Act" mean the Right to Information Act, 2005 (No. 22 of 2005).

(b) "Appellate Authority" means the authority designated as such by the Chief Justice of Bombay High Court.

(c) "Authorised person" means Public Information Officers and Assistant Public Information Officers designated as such by the Chief Justice of the Bombay High Court.

(d) "Form" means the Form appended to these Rules.

(e) "Section" means a section of the Act.

(f) Words and expressions used but not defined in these Rules shall have the same meaning as assigned to them in the Act.

3. Office Hours.--General**,** the office hours shall be from 10.30 to 5.00 p.m. on all working days.

1 . M.G.G. Pt. IV. C. G. 92 No. 9, P.1, dated 03-09-2009.

TOP

CHAPTER II

Procedure for Application and its Disposal

4. A person who desires to obtain information under the Right to Information Act, shall make a requisition in a self signed application in Form - A appended hereto to the Public Information Officer, accompanied by a fee of rupees ten by way of cash against proper receipt or by demand draft or banker's cheque or money order payable to the public authority [1][or Indian Postal Order payable to the Public Authority i.e. Public Information Officer, High Court, Bombay] or by affixing a Court fee stamp of rupees ten [2][~~and a self addressed envelope bearing postal stamps equivalent to the rate prescribed for Registered Post with Acknowledgment Due (R.P.A.D.) alongwith the application.~~] Procedure to be adopted after presentation of application.

5. The Public Information Officer shall register the application for information in Form-II appended hereto and requisition the records regarding the information desired in the application in his office. He shall instruct the applicant to appear on the fifth day from the date of submission of application.

6. The Public information Officer shall decide as to whether the information desired by the applicant can be provided or the inspection of record can be carried out as per Rules. If he decides affirmatively then he shall inform the applicant in Form-B appended hereto about the fee prescribed for supplying of such information and approximate postal charges thereof before providing the desired information. In case the application is received by post, the Public Information Officer shall inform the applicant about the prescribed fee in Form-B through the envelope received along with the application. He shall supply the desired information or record for inspection only after *the* deposit of prescribed fee as per Rule 17 by the applicant. If the applicant desires to seek information by post, he shall submit a self addressed envelope with postal stamps equivalent to the rate prescribed for Registered Post with Acknowledgment Due (R.P.A.D.) along with the prescribed fee on receipt of the intimation by the Public Information Officer to that effect. If the said fee is not deposited within 15 days, the application shall stand rejected.

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1 . Inserted by G. N. No. P. 0703/2009, dated 17-03-2017, in Pub. In M. G. G. Pt. IV-C, Extra, dated 22-03-2017.
2 .This portion was deleted by G. N. No. P. 0703/2009, dated 2-08-2019.

TOP

7. (a) After receipt of the prescribed fee, a date not exceeding seven days shall be fixed for preparation and providing information to the applicant. As far as possible, arrangement shall be made to provide the desired information by the said date. lf, for any reason the information cannot be provided by the prescribed date, next date shall be given to the applicant. However, the intervening period between the above two dates shall not exceed 7 days. If, even on the said next date for any reason, the information cannot be supplied to the applicant, the Public Information Officer shall fix another date, but the total extended period shall not be more than 30 days. The information shall necessarily be provided within 30 days from the date of receipt of the prescribed fees. In the case of an application received by post, the information shall necessarily be sent within 30 days of receipt of the prescribed fee.

(b) After preparation of the desired information, the Public Information Officer shall certify it by putting his signature and Seal alongwith following details / particulars.-

1. No. and date of submission of application.
2. The date fixed for appearance of the applicant.
3. Date of appearance of applicant.
4. Date of preparation of information.
5. Date of supply of information.
6. Details of fee.
7. Signature of Officer preparing information.

(c) If, the Public Information Officer finds that the information sought by the applicant falls under the exempted category of information referred to under section 8 or section 9 of the Act, he shall inform the applicant about the rejection of the said application, in Form-C appended hereto.

8. If the applicant is illiterate and unable to present the application in writing, the Public Information Officer shall help him in getting the application reduced to writing.

9. A Register shall be maintained in the office of Public Information Officer which shall be in Form-D containing the following particulars.-

1. Registration No. of application.
2. Date of Receipt of application.
3. Name and complete address of the applicant.
4. Date of Appearance of the applicant.

TOP

5. Details of the desired Information.

6. Source of information.

7. Date of dispatch of application to the concerned department.

8. Date of receipt of information.

9. Date of disposal of application.

10. Decision/Note of Public Information Officer on the application.

11. Mention of fee affixed on the application.

12. Charges paid by the applicant towards information. 13 Applicant's signature, which shall be the acknowledgment.

14. Order of first appeal.

15. Order or second appeal.

16. Remarks.

10. (1) If the applicant seeks any information with respect to a Third-Party he shall send/ submit an application with said details, accompanied by a fee of rupees ten by way of cash against proper receipt or by demand draft or banker's cheque or money order payable to the public authority [1][or Indian Postal Order payable to the Public Authority i.e. Public Information Officer, High Court, Bombay] or by affixing a Court fee stamp of rupees ten: and a self addressed envelope bearing postal stamps equivalent to the rates prescribed for R.P.A.D. alongwith the application.

(2) On receipt of such application, Public Information Officer shall register the application in the register maintained in his office for that purpose and deal with it as provided under section 11 of the Act.

(3) If the information, sought by the applicant, is in respect of judicial proceedings or record, he shall obtain the information as per the procedure prescribed for obtaining certified copies under the Rules and Orders for the time being in force in that behalf.

(4) In the event the Public Information Officer rejects the application for information, he shall inform the applicant in Form-C.

1 . Inserted by G.N. No. P. 0703/2009, dated 17-3-2017, Pub. in M.G.G. Pt. IV-C, Extra, dated 22-3-2017.

TOP

Procedure for Inspection of Records

11. If after having considered the application filed by applicant, the Public Information Officer finds it appropriate that the applicant may be granted permission to inspect the records and if he grants such permission, the Public Information Officer shall requisition the record desired by applicant for perusal, from the concerned sections/Departments and shall give the same to the applicant for inspection in his presence, during office hours, between 2.00 p.m. and 5.30 p.m. While inspecting such record, the applicant shall be allowed use of pencil and the information desired by the applicant shall be noted by him by pencil only. If the applicant brings any writing instruments other than a pencil, he shall deposit the same with the Public Information Officer and thereafter he shall be allowed to inspect the record.

12. During inspection, the applicant shall not have any right to put any mark on the record. During inspection of record, if the applicant wishes to make notes, he shall make them on a plain paper and after inspection he shall show the note/ s to the Public Information Officer, who after being satisfied that the applicant has not tampered with the record in any way, shall return such note/s to the applicant.

13. **Exemption from disclosure of information:** The information specified under section 8 of the Act shall not be disclosed and made available, and, in particular the following information shall not be disclosed:-

(a) [1][~~Such information which is not in the Public domain~~];

(b) Information which relates to Judicial functions and duties of the courts and matters incidental and ancillary thereto;

(c) Information which has been expressly forbidden to be published by the Court or the disclosure whereof may constitute Contempt of Court; or information which includes commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, unless the Competent Authority is satisfied that larger public interest warrants the disclosure of such information;

1. Deleted by G. N. No. P. 0703/2009, dated 02-08-2019.

TOP

(d) Information which would impede the process of investigation, apprehension or prosecution of offenders; or information which relates to any public activity or interest, or which would cause unwarranted invasion of privacy of the individual unless the Central Public information Officer or the State Information Officer or the Appellate Authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information;

(e) Any information affecting the confidentiality of any examination conducted by the Bombay High Court including for the Maharashtra Judicial Service and Maharashtra Higher Judicial Service. The question of confidentiality shall be decided by the Competent Authority whose decision shall be final;

(f) Information / Copy / ies inspection with respect to cases pending in Court, which shall be obtained from the Court, as per the Rules and Orders in force for the time being;

(g) Information which is prohibited under section 24(4) of the Act;

(h) Information which is contained in published material available to the Public or which is available on the Web Site.

Note.- Insofar as decisions which are taken administratively or *quasi judicially,* information therefore, shall be available only to the affected persons.

14. Information which is to be furnished and access to records shall be subject to the restrictions and prohibition contained in Rules/Regulations including those in regard to the destruction of records, in force from time to time, which may have been notified or implemented by the Court.

CHAPTER III

Appeal

15. Any person who does not receive any decision within the time prescribed under Clause (a) of sub-section (3) or sub-section (1) of section (7) of the Act, as the case may be, or who is aggrieved by the decision of Public Information Officer or Assistant Public Information Officer, as the case may be, may prefer an appeal in writing to the Registrar General, High Court of judicature at Bombay or any other officer as nominated by the Chief Justice, for Bombay and the Senior most Registrar or any other Officer as nominated by the Chief Justice, for Nagpur, Aurangabad' and Goa, who is the first Appellate Authority accompanied by an appeal fee of rupees twenty by way of cash against proper receipt or by

TOP

demand draft or banker's cheque or money order payable to the public authority [1][or Indian Postal Order payable to the Public Authority i.e. Public Information Officer, High Court, Bombay] or by affixing a Court fee stamp of rupees twenty. The memo of said appeal shall contain in brief, the particulars regarding the case, the grounds of appeal and a certified copy of the order passed by Public Information Officer. The appeal shall be disposed of by the first Appellate Authority, after providing an opportunity of a hearing to the parties.

16. A Register of appeals shall be maintained in Form E in the office of the Registrar General containing the following details.-

1. Registration No.
2. Name and particulars of applicant / appellant.
3. Name and particulars of respondent / non-applicant.
4. Details of the order of Public Information Officer against which appeal is preferred.
5. Date of order.
6. Decision.
7. Remarks.

After the disposal of appeal preferred by the appellant, the decision shall be communicated to the appellant in an appropriate manner

17. The fee payable for the information sought shall be charged by way of cash against proper receipt or by demand draft or banker's cheque or money order payable to the public authority [1][or Indian Postal Order payable to the Public Authority i.e. Public Information Officer, High Court, Bombay] or by affixing a Court fee stamp of rupees twenty.

Sr. No.	**Particulars of documents**	**Fees**
(1)	(2)	(3)
1.	For inspection of records	For inspection of records, no fee for the first hour, however a fee of rupees five for each subsequent hour (or fraction thereof) thereafter.
2.	When concerned Department has already fixed the price of some	The price so fixed plus postal charges.

1 . Inserted by G. N. No. P. 0703/2009, dated 17-3-2017, Pub. in M. G. G. Pt. IV-C, Extra, dated 22-3-2017.

TOP

	documents, maps etc.	
3.	When the information is readily available by way of photocopying.	(i) Rupees two for each page (in A-4 or A-3 size paper) created or copied plus postal charges; or (ii) actual charge or cost price of a copy in large size paper plus postal charges.
4.	For typed information	Rs. 5 per page.
5.	For computer printing	Rs. 5 per page.

The fees received by way of cash against proper receipt [1][and Indian Postal Order] shall be credited to the Treasury under following head : -

Major Head-0070 – Sub Major Head-800-Other Receipts.

18. A Cash Register shall be maintained by the Public Information Officer with following details:

Name and address of application	Date of application	Date of deposit of amount with Challan	Particulars of fees	Refund if any	Remarks
(1)	(2)	(3)	(4)	(5)	(6)

19. An applicant living below the poverty line shall, on production of a copy of the certificate issued by the Competent Authority alongwith the application, he provided the desired information and copies free of cost under these Rules.

20. Removal of doubts.- If any doubt arises as to the application and / or interpretation of any provision of these Rules, the matter shall he referred to the Hon'ble the Chief justice whose decision thereon shall be final.

1 . Inserted by G. N. No. P. 0703/2009, dated 17-3-2017, Pub. in M. G. G. Pt. IV-C, Extra, dated 22-3-2017.

TOP

Note.- Fees, which shall be deposited in the form of Court fees shall be cancelled by the Public Information Officer with a rubber stamp or by punching holes.

CHAPTER IV
MISCELLANEOUS

21. The applications for information shall be preserved for six months from the date of receipt. On expiry of the said period of six months, they shall be destroyed after obtaining orders from the Public Information Officer.

22. The information Copy/ies / inspection with respect to cases pending in Court shall be obtained from the Court, as per Orders in force for the time being as applicable to the High Court.

23. The Public Information Officer shall have the right to allocate work amongst the Assistant Public Information Officers and other ministerial staff.

FORM-A
Application for Information under section 6(1) of the Act

To,
The Public Information Officer
(Name of the office with address)

1. Full name of the applicant
2. Father's/Spouse's name:
3. Permanent address:
4. Particulars of information acquired:
5. Address to which information is to be sent and the form in which it is desired:
6. Is this information not made available by the Public Authority?
7. Are you ready to pay the prescribed fee?
8. Whether the applicant belongs to BPL category? If yes, have you furnished proof of the same?

TOP

9. Whether information is solicited by registered post? If yes, please enclose an envelope alongwith requisite postal stamp/s.

Place:

Date:

Full Name and Signature of the applicant

Form – B

Information for Payment

From,

Name and Designation of the Public Information Officer,

To,

Name of applicant

Address

Sir,

Please refer to your application dated --------- addressed to the undersigned requesting information on ---------- I am to inform you that the following amount towards the fee for providing information may be deposited to enable the undersigned to furnish the said information.

Please make payment within a period of fifteen days from the date of receipt of this intimation failing which the application shall be rejected.

Place:

Date:

Yours faithfully,

Public Information

Officer.

Seal.

TOP

FORM C

Intimation of rejection

To,

Name of applicant

Address

Sir,

The undersigned regrets to express his inability to furnish the information asked for on account of the following reasons:-

1. It comes under the exempted category covered under sections 8 and 9 of the Act.
2. The information sought by you pertains to judicial proceedings which can be obtained under existing Bombay High Court Rules.
3. Your application was not complete in all respects.
4. The information is contained in published material available to the public.
5. You did not pay the prescribed fee for providing the information within the prescribed time.
6. The information sought is prohibited as per section 24(4) of the Act.
7. The information would cause unwarranted invasion of the privacy of any person.
8. The information as sought by you is available on our web site ------ You may download the information.
9. For any other reason (please specify) ------ however, if you feel aggrieved by the above said refusal you may file an Appeal before the -------- within 30 days of the receipt of this letter.

Place:

Date:

Name & Designation of

Public Information Officer

TOP

FORM – D

FORMAT FOR THE INFORMATION REGISTER

Registration No. of application	Date of receipt of application	Name and complete address of applicant	Date of appearance of the applicant	Details of desired information
(1)	(2)	(3)	(4)	(5)
Source of information	Date of dispatch of application to the concerning department	Date of receipt of information	Date of disposal of application	Decision/Note of Public Information officer on the application
(6)	(7)	(8)	(9)	(10)
Mention of fee affixed on the application	Applicant's signature, which shall be the acknowledgment	Order of First Appeal	Order of Second Appeal	Remarks
(11)	(12)	(13)	(14)	(15)

TOP

FORM-E

FORMAT OF THE REGISTER FOR REGISTRATION OF APPEAL

Registration Number	Name and particulars of applicant/appellant	Name and particulars of respondent /non-applicant	Details of the order of Public Information Officer against which appeal is preferred	Date of Order	Decision	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)

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TOP