

THE BOMBAY HIGH COURT APPELLATE SIDE RULES, 1960
(Amended upto 20th October, 2022)

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PART 1 – CONDUCT OF BUSINESS

¹CHAPTER I

JURISDICTION OF SINGLE JUDGES AND BENCHES OF THE HIGH COURT

1. Jurisdiction ordinarily exercised by Division Court of two Judges.- (i) The Civil and Criminal jurisdiction of the Court on the Appellate Side shall, except in cases where it is otherwise provided for by these rules, be exercised by Division Court consisting of two or more Judges.

(ii) Notwithstanding anything contained in this Chapter, the Chief Justice may assign any matter or categories of matters, which can be disposed of by a Single Judge, to a Division Bench.

2. Matters disposed of by a Single Judge.— Save as otherwise expressly provided by these rules, a Single Judge may disposed of the following matters :—

I. Civil —

(a) Appeals.—

- i) From original decree in suits or from adjudication in other proceedings from which appeals lie to the High Court as from original decrees, whether under the Civil Procedure Code or under any local or special Act, wherein the value of the subject-matter in dispute in the Court or before the Tribunal of the first instance does not exceed ²[Rs. 2 crore] and wherein the value of the subject-matter still in dispute on appeal is ²[Rs. 2 crore] or less : provided, however, that the expression ‘the value of the subject-matter still in dispute on appeal’ appearing in this sub-clause shall be construed to mean, where there is an appeal as well as a cross appeal or cross-appeals or cross-objections, the total of the values of the subject-matters in dispute in the appeal as well as the cross-appeal or the cross appeals or the cross-objections;
- ii) From appellate decrees in suits or from adjudications in other proceedings from which appeals lie to the High Court as from appellate decrees, whether under the Civil Procedure Code or under any local or special Act;
- iii) From decrees under section 144 of the Code of Civil Procedure ;
- iv) From orders under section 104 or Order XLIII, Rule 1 of the Code of Civil Procedure;
and

1. Substituted vide High Court Notification No. P. 3601/2013, dt, 27-08-2013, published in M.G.G. Part- IV-C, dt. 28-08-2013.

2. Substituted vide High Court Notification No. P. 3601/2015 dated 09th December, 2015 published in M.G.G., Part 4-C, dated 17-23rd December, 2015, Page No.21.

- v) From orders under local or special Acts not having the force of a decree
- b) Applications for the exercise of the Court's revisional jurisdiction under section 115 of the Civil Procedure Code or under section 25 of the Provincial Small Cause Courts Act, or under any special or Local Law excluding the petitions under section 51 of the Parsi Marriage and Divorce Act, 1936, arising out of decrees or orders passed by the Parsi Chief Matrimonial Court.
- c) Applications for the withdrawal of appearance or cancellation of the vakalatnama or for deposit or withdrawal of moneys and for refund of Court Fees.
- d) Applications under the Companies Act, 1956, and proceedings thereunder.
- e) All other applications incidental to or interlocutory or arising out of or relating to the appeals or civil revisional applications pending or proposed to be filed in the High Court and also applications for withdrawal of appeals or applications for consent decrees or orders under Order XXIII, Civil Procedure Code.
- f) Revision of orders passed by the Registrar, Deputy Registrar, Assistant Registrar or the Special Officer in those appeals or petitions which are to be dealt with by a single Judge under these rules.

II. Criminal—

- a) Appeals against convictions, except in which the sentence of death or imprisonment for life has been passed appeals against acquittals wherein the offence with which the accused was charged is one punishable on conviction with a sentence of fine only or with a sentence of imprisonment not exceeding ten years or with such imprisonment and fine, and appeals under section 377 of the Code of Criminal Procedure, revision applications and Court notices for enhancement of sentence for offences punishable on conviction with sentence of fine only or with sentence of imprisonment not exceeding ten years or with such imprisonment and fine.
- b) Appeals against orders relating to disposal of property and orders directing payment of compensation, expenses and/or fees or orders binding over the accused to appear and receive sentence at any time the accused may be called upon and in the meanwhile to be of good behaviour or admonishing the accused.
- c) Applications for the exercise of the Court's revisional jurisdiction under section 401 of the Code of Criminal Procedure, and reports of cases of which record is called for on examination of criminal returns or otherwise.

- d) Applications for leave to appeal under section 378(4) of the Code of Criminal Procedure against acquittals wherein the offence with which the accused was charged is one punishable on conviction with a sentence of fine only or with a sentence of imprisonment not exceeding ten years or with such imprisonment and fine.
 - e) Application for bail or stay, not arising in or out of or relating to any appeal or application already pending in the High Court.
 - f) Application for leave to appeal to the Supreme Court under Article 134 of the Constitution of India in matters disposed of by a single Judge.
 - g) All miscellaneous applications, including applications for bail or stay in or out of or relating to matters under items (a) to (c) above.
 - h) All applications under section 482 of the Code of Criminal Procedure including applications challenging an Order for issuing process in a private complaint, except :—
 - i) applications seeking review, modification or setting aside of any order passed by a Division Bench ;
 - ii) applications for quashing an F.I.R., C.R. , Charge Sheet or order directing investigation under section 156(3) of the Cr.P.C. irrespective of whether such applications have been filed under section 482 simpliciter or read with Article 226 and/or Article 227 of the Constitution.
 - i) Application/petitions for furlough or parole under Prison (Bombay Furlough and Parole) Rules, 1959 or under the (Prison Goa, Daman and Diu Furlough and Parole) Rules, 1968 or for temporary bail in the matter pending before Division Bench or a Single Judge shall be placed, before the respective fora. Applications/petitions of aforesaid nature arising out of matters already disposed of shall be placed before the Single Judge assigned with criminal matters.
3. All appeals from orders passed under any special statute other than Code of Criminal Procedure, which provides for an appeal to the High Court from an order of penalty or for confiscation or an order in the nature thereof passed under that statute shall be heard by a Division Bench hearing first appeals.
4. All the appeals from Orders or Judgments of the Family Court to the High Court, dealt with under the Family Courts Act, 1984 including the Orders in proceedings under Chapter IX of the Code of Criminal Procedure shall be heard by the Division Bench hearing First Appeals.
5. **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 on Working days when the Division Court is not in Session issue notice as the case

may be, in any matter of an emergent nature, civil or criminal or under the Constitution, and may pass such interim orders regarding stay. Injunction, bail and other interim reliefs as he may deem fit.

6. Applications for transfer of proceedings in lower Courts.—All applications for transfer of suits, appeals, criminal cases or other proceedings pending for trial or disposal in any Civil Court or Criminal Court subordinate to the High Court or over which the High Court has the power of superintendence, to another Court subordinate to or under the superintendence of the High Court, or to the High Court may be disposed of by a single Judge.

7. The point of difference of opinion between Judges of a Division Bench shall be decided in the manner provided for in section 98 of the Code of Civil Procedure or section 392 of the Code of Criminal Procedure as the case may be. After the third Judge to whom the reference is made has given his opinion, the matter shall be placed before the Division Bench which had originally heard the matter and it shall pronounce the final judgment or order disposing of the matter:

Provided that, where one of the Judges constituting such Division Bench has ceased to be a Judge of the High Court or has for the time being ceased to sit at Bombay, Nagpur, Aurangabad or Goa, as the case be (the Division Bench whereof originally heard the matters), the matter shall be placed before the Division Bench of which the other Judge is a member:

Provided further that where both the Judge have ceased to be the Judge of the High Court or have ceased to sit at Bombay, Nagpur, Aurangabad or Goa, as the case be, the Division Bench whereof originally heard the matter shall be placed before a Division Bench dealing with the class of cases to which the referred matter belongs.

And the Division Bench mentioned in the provisos shall pronounce the final Judgment or order disposing of the matter.

8. Reference to two or more Judges.—If it shall appear to any Judge, either on the application of a party or otherwise, that an appeal 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.

¹9. (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 difference of opinion on a point of law, the Division Bench referring the case shall state the point on which it differs, formulate the question or issue to be answered and refer the case to the Chief Justice for decision by a larger Bench.

1. Inserted vide notification No. Rule/P.3601/2022 , Dated 24-06-2022

(B) If the question arises in a appeal from an original decree, the questions of law shall alone be referred, and the larger Bench shall return the case with an expression of its opinion upon such points of law for final adjudication by the Division Bench which referred it, and in case of necessity in consequence of the absence of any or either of the referring Judges, for the ultimate decision of another Division Bench.

(C) The provisions in sub-rules (A) and (B) of Rule 9 shall apply *Mutatis Mutandis* to Single Judges.”]

CHAPTER II

POWERS OF THE REGISTRAR, DEPUTY REGISTRAR

AND ASSISTANT REGISTRAR

1. Powers and duties of the Registrar, Deputy Registrar and Assistant Registrar in connection with admission of appeal. — The Registrar, ¹[the Additional Registrar], the Deputy Registrar or the Assistant Registrar shall admit to the register all memoranda of appeals or cross-objections, which are duly stamped, are in the proper form and, contain the particulars required by law, are accompanied by the necessary copies, and are presented within the period prescribed for the same. No appeal shall be considered pending within the meaning of Order XLI, Rule 6 of the Code of Civil Procedure until it has been admitted to the register.

The Registrar shall decide all questions under this rule, and if he refuses to register any memorandum of appeal or cross-objections, the party aggrieved may move the Court within seven days from the date of the Registrar's refusal to direct its registration.

2. Rejection or return for amendment of memorandum by Registrar. — The Registrar may reject or direct the amendment then and there by the appellant of any memorandum of appeal for reasons specified in Order XLI, rule 3.

3. Disposal of matters by Registrar. — (i) In addition to the powers conferred upon him by the other rules and subject to such limitations as may be prescribed therein, the Registrar may exercise the following powers :—

He may dispose of:

(a) Applications for orders under Order XLI, Rules 5, 6 and 10 of the Code of Civil Procedure in appeals, which have been admitted, provided that the Registrar may grant stay pending admission during vacation, and such stay shall remain operative for only seven days from the date of the order.

(b) Applications for correction of memoranda of appeals or applications as regards the description of the parties as majors and minors.

(c) Applications for amendment of memoranda of appeals or applications by correction of the description of the parties or deletion of the names of parties where there is no contest.

(d) Applications to appoint or discharge of next friend or guardian *ad item* of a minor or a person of unsound mind, except in cases of appeal to the Supreme Court, and to amend the record accordingly.

¹. Inserted by Notification No. 3601/82 Dt. 29-4-1983.

(e) Applications for the issue of notice to the proposed guardians or next friends of minors or lunatics.

(f) Applications for issue of a fresh notice or for extending the time for, or ordering a particular method of, service of notice on a respondent.

(g) Applications for orders for substituted service including substituted service by publication of the Notice by way of advertisement in a newspaper.

(h) Applications for fresh notice where there is delay in filing.

¹[(i) Applications for entering on the record the names of the legal representatives of the deceased parties which are presented in time and/or in which there is no contest.]

(J) Applications for recording order of abatement where there is no contest.

(k) Applications for leave to continue the proceeding under Order XXII, Rule 10 of the Code of Civil Procedure.

(l) Notes filed by Advocates for calling for records and proceedings.

(m) Requisitions by subordinate Courts for records and documents.

(n) Notes filed by Advocates for orders regarding withdrawal of appearances in cases which are yet to be notified on the Weekly Board.

(o) Applications or notes for translations including notes and applications for excuse of delay or for extension of time for filing such applications.

(p) Notes for extension of time for payment of process fees, printing or translation charges, etc. not paid within the prescribed time.

(q) Notes for excuse of delay in filing of affidavits or copies required by these rules or dispensing with the filing of such copies if the proceedings are otherwise filed in time.

(r) Applications for certified copies in criminal cases where such copies are not, ordinarily granted without the permission of the Court.

(s) Requests for extension of time by lower Courts for certifying the record and proceedings with paper books in civil and criminal cases.

(sl) Reports for non-payment of paper book charges in the Courts below.

(t) Requests for extension of time in cases remanded for further evidence or findings on issues.

¹ Substituted vide Notification No. P3601/2002, Dt. 4-2-2002, published in M.G.G., Dt. 28-3-2002, Part 4-C.

- (u) Notes for dispensing with printing in appeals the hearing of which is expedited.
- (v) Notes for extension of time in furnishing the security ordered by the Court.
- (w) Applications for withdrawal of appeals or cross-objections.
- (x) Applications for reducing the amount of deposit for the preparation of the transcript record for the purposes of appeal to the Supreme Court.
- (y) Notes by the Office for additional deposits for the preparation of the transcript record for purposes of appeal to the Supreme Court.
- (z) Applications or notes for the return of documents filed in any proceeding in the High Court.
- (ii) No matter which can be disposed of by the Registrar under this rule shall, without the permission of the Court, be placed before the Court.

POWERS AND DUTIES OF THE REGISTRAR

4. Powers and Duties of the Registrar. — The Registrar may besides—

- (a) determine all questions relating to court-fees except those that are required to be dealt with by the Taxing Officer appointed under the Court- fees Act;
- (b) determine all matters regarding service, or non-service or defective service of any notice;
- (c) sign all decrees, writs and orders by the Court;
- (d) adjudicate on all refunds under these rules or under the Court-fees Act and under the notifications, if any, issued there under;
- (e) adjudicate on all disputes regarding the assessment of process fees;
- (f) issue notices in all matters which are not required to be placed for preliminary hearing before the Court;
- (g) pass orders for placing before the Court with the appeal or other substantive proceedings, applications to add additional grounds in the memoranda of appeals or petition or to adduce additional evidence at the hearing;
- (h) issue notices in applications for substitution of names in appeal to the Supreme Court;
- (i) exercise all the powers of the Court under Order XLV, Rule 8 of the Code of Civil Procedure;

(j) fix another date in a case in which the party served under any of the provisions of the Code of Civil Procedure is not present on the date fixed and order the notice or process to be sent to the party by registered post pre-paid for acknowledgment;

(k) Order payment of interest accruing on Government Promissory Notes deposited as security deposit under Order V, Rule 7 of the Civil Procedure Code or the Supreme Court Rules and to order the refund of any unexpended balance under Order XLV, Rule 12 of the Code of Civil Procedure;

(l) direct from time to time the deposit of funds for the conduct of the proceedings on behalf of minor respondents or opponents for whom guardian *ad litem* has been appointed;

(m) order payment or refund according to the orders or directions of the Court of moneys paid or deposited in this Court;

(n) order refund of moneys paid in this Court for enrollment as Advocates or Pleaders or for copies or for any other purposes under the rules, of such amounts as may not have been utilized;

(o) call for reports from subordinate Courts regarding valuation of any property in respect of any proceeding in the High Court for the purposes of assessing the valuation for court-fees, stamp duty, costs, etc.

¹[(p) In the absence of Court's Order, the Registrar is empowered to invest the amounts of pending matter, deposited in the name of the Registrar, in Nationalised Banks already on the High Court Panel, by calling upon such nationalised banks, to submit offers, in order to invest the money in FDRs, on such terms and conditions as Registrar deems fit].

5. Registrar not to extend time or excuse delay exceeding one month. — ²[Subject to the provisions of the other rules, in cases where interim relief is granted, the period of time which may be extended, or of delay which may be excused by the Registrar, for or in doing anything which is required to be done by the rules in a particular time, shall not exceed one month.

In all other cases, the Registrar may grant time upto three months.]

³**[6. Delegation of powers to Additional Registrar, Deputy Registrar, Assistant Registrar**
⁴**[****].** — The Registrar may delegate any of the powers mentioned in Rules 1 to 4 above to such Additional Registrar, Deputy Registrar or Assistant Registrar, ⁴[Special Officer or Additional Special Officer] as the Honourable the Chief Justice may sanction.

7. Revision of Orders of Registrar, Additional Registrar, Deputy Registrar, Assistant Registrar or Special Officer and Additional Special Officer. — (i) Any orders passed by the Registrar, Additional Registrar, Deputy Registrar or Assistant Registrar ⁵[Special Officer or

1. Added by Notification No. 3605/2003, Dt. 15-7-2003, published in M.G.G. Dt. 7-8-2003, Part4-C.

2. Substituted by Notification No. P3601/2002, Dt. 4-2-2002, published M.G.G., Dt. 28-3-2002, Part 4-C, Page 56.

3. Substituted by Notification No. P. 3601/1982, Dt. 28-8-1992.

4. Deleted vide Mah. Govt. Gazette, Dt. 26-9-1996, Part 4-C, Page 431.

5. Deleted vide M.G.G., Dt. 26-9-1996, Part 4-C, Page 431.

Additional Special Officer] under Rules 1 to 5 above or any other Rules shall be subject to revision by a Single Judge upon a motion of the party aggrieved, contained in a note and no application is necessary for the same.

(ii) Such motions for revision under sub-rule (i) shall be made, under otherwise specifically provided for, within 15 days from the date of the Order complained of.

8. Powers under section 152, Civil Procedure Code. — The Registrar, Additional Registrar, Deputy Registrar or Assistant Registrar, ¹[Special Officer or Additional Special Officer] may exercise all the powers of a Court under section 152 of the Civil Procedure Code in respect of their own orders.

9. What Officer can administer oaths. — The Registrar, Additional Registrar, Deputy Registrar or Assistant Registrar, ²[Special Officer, Additional Special Officer] Section Officer and Senior Superintendent may administer oath and solemn affirmations to deponents making affidavits.

10. Rules applicable to all applications other than memoranda of appeals. — The above rules apply *mutatis mutandis* to all applications other than memoranda of appeals which may be presented to the Court and the term "appellant" includes "applicant" and the term "respondent" includes "opponent".

11 . ³[Deleted]

⁴[**12. "Registrar" includes Additional Registrar, Deputy Registrar or Assistant Registrar**
⁵**[Special Officer and Additional Special Officer].** — Subject to the provisions of Rule 6 in Chapter II the word "Registrar" whenever it occurs in the Bombay High Court Appellate Side Rules, 1960, includes all Officers as designated as "Additional Registrar", "Deputy Registrar", "Assistant Registrar", ⁵["Special Officer" or "Additional Special Officer] wherever they are posted.]

* * * * *

1. Deleted vide M.G.G., Dt. 26-9-1996, Part 4-C, Page 431.
2. Deleted vide M.G.G, Dt. 26-9-1996, Part 4-C, Page 431.
3. Deleted by Notification No. P. 3601/1982, Dt. 29-4-1983.
4. Substituted by Notification No. P. 3601/1982, Dt. 28-8-1992.
5. Deleted vide Mah. Govt. Gazette, Dt. 26-9-1996, Part 4-C, Pg.431.

PART II — PROCEDURE AND PRACTICE

CHAPTER III

AFFIDAVITS

¹[**1. Entitling of affidavits.** — Every affidavit to be used in the High Court shall be entitled as follows :

AT BOMBAY:

"In the High Court of Judicature, Appellate Side, Bombay."

AT NAGPUR:

"In the High Court of Judicature, Bombay, at Nagpur"

AT AURANGABAD:

"In the High Court of Judicature, Bombay, at Aurangabad"

AT GOA:

"In the High Court of Judicature, Bombay, at Panaji, Goa."]

2. Entitling of affidavits relating to proceeding pending in High Court. — An affidavit relating to a proceeding pending in this Court shall be entitled "in the matter of (state the proceeding and its number)" and shall set out the names and descriptions of the parties.

3. Entitling of affidavits in respect of cause not in High Court. — if there be no cause in the Court, the affidavit shall be entitled "In the matter of the petition of..... ".

4. Statements of facts to be divided into paragraphs and numbered. — Every affidavit containing any statement of facts 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.

5. Affirmation by declarant from knowledge and belief. — The declarant shall state what paragraphs or portions of his affidavit he swears or solemnly affirms to from his own knowledge and what paragraphs or portions he swears or solemnly affirms to on his own belief, stating the grounds of such belief.

6. Affirmation below petition sufficient compliance. — When any petition is required to be supported by an affidavit by these rules, a declaration on oath or solemn affirmation by the

1. Substituted by Notification No. P3601/1982, Dt. 29-4-1983.

petitioner below the petition stating that the facts stated in the petition are true to the best of his own knowledge or belief would be sufficient compliance; and no separate affidavit, unless otherwise ordered by the Court, shall be necessary.

7. Language if not known, document be interpreted by Translation Department. — (i) The Officer administering the oath or affirmation for the purpose of affidavits shall satisfy himself that the language in which the affidavit is sought to be made is known to the declarant.

(ii) If the language is not known or understood by the declarant the Officer administering the oath or affirmation shall, where the party is represented by an Advocate require the said Advocate to certify in writing below the affidavit that the contents of the affidavit are interpreted to the declarant in a language known to him and that the declarant has fully understood them.

(iii) Where the declarant is not represented by an Advocate, the Officer administering the oath or affirmation shall direct the Translation Department to interpret the contents of the documents to the declarant on the payment of such fees as may be prescribed. The Translator interpreting the document shall certify below the document that its contents have been interpreted to the declarant in a language known to him.

(iv) When the Officer administering the oath or affirmation is satisfied that the language of the document is known or understood by the declarant, or when the Advocate or the Translator certifies that the contents have been interpreted to the declarant in a language known to him, the oath shall be administered and the affidavit completed by the signature of the declarant below the declaration on oath in the presence of the Officer, and the certification by the Officer of the administration of the oath.

8. Identity of declarant. — The Officer, before administering oath or affirmation and certifying the affidavit, shall satisfy himself as to the identity of the declarant who shall be either known to the Officer personally or identified before him by a person whom he personally knows ¹[or whose identity is duly established to the satisfaction of the officer by any of the following documents, namely Passport, Driving Licence, Voters Identity Card, PAN Card, or Photo Identity Card, issued by any Government Department]. The manner in which the identification is made shall be certified by the Officer administering the oath.

9. Oath to be administered under Oaths Act. — Oaths and affirmations to be made by a witness or interpreter under section 4 of the Oaths Act, 1969 (Act XLIV of 1969), shall, as required by section 6(2) of that Act, be administered as per Rule 9 of Chapter II of the Bombay High Court Appellate Side Rules. 1960.

The following forms of oaths and affirmation are prescribed under section 6 of the Oaths Act, 1969 :~

Form No. 1 (Witnesses):

1. Added by Notification No. 3601/2003, Dt. 24-6-2003, published in M..G.G. Dt. 31-7-2003, Pt. 4-C, pg.311.

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

Form No. 3 (Interpreter) :

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

Form No. 4 (Affidavits) :

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

10. Solemn declaration by the party making the affidavit. — The declaration by the party making the affidavit shall be in the following form:—

“I the Appellant/Respondent, Applicant/Opponent abovenamed do solemnly declare that what is stated above in paragraph is true to my own knowledge and that what is stated in the remaining paragraphs is true to the best of my information which I obtained from the following sources:—

I believe the information to be true for the following reasons :—

Solemnly declare at..... above said this day of.....20

(Signature)

Before me,

Assistant Registrar,

Solemnly affirmed before me

by

who is identified before me

by

whom I personally know.

This day of 20

High Court, Appellate Side, Bombay.

Assistant Registrar.”

11. Deputation of officers for oaths and affirmations, — (a) Whenever an oath or a solemn affirmation is required to be administered to a party outside the offices of this Court for the purposes of any proceedings pending or intended to be filed in this Court, or for the purposes of any proceedings arising from a proceeding filed in this Court, the Registrar, on a request by the party or party's Advocate, may depute for the purpose one of the officers of this Court empowered to administer oaths and solemn affirmations.

(b) Such officer shall, in addition to the usual fee prescribed in Rule 5 of Chapter XIV of these Rules for administering oaths and solemn affirmations and to be recovered in the form of court-fee stamps, be entitled to charge fees in cash as follows —

(i) Rs.5, if the place of attendance is within eight kilometres from the Court-house;

(ii) Rs.10, if the place of attendance is beyond eight kilometres but within sixteen kilometres from the Court-house; and

(iii) Rs.15, if the place of attendance is beyond sixteen kilometres from the Court-house.

(c) The party or the Advocate concerned shall, at his own cost, be required to provide conveyance both ways to the officer between the Court- house and the place of attendance.

(d) A single fee in cash as provided in clause (b) above shall be chargeable for any number of oaths and solemn affirmations administered at one place on one occasion.

(e) The fees recovered in Cash under clause (b) above shall be credited to Government if the attendance is required during office hours, and if the attendance is required outside office hours and on Sundays and holidays, the officer shall be entitled to appropriate the said fees to himself.

¹(f) The facility provided by this rule shall be available only within the limits of the Municipal Corporation of Greater Bombay, Nagpur City, Aurangabad City and the Municipal limits of Panaji and the expression 'Court House' in this rule shall mean with reference to the City of Greater Bombay, the Court House of this High Court at Bombay and with reference to the cities of Nagpur, Aurangabad and Panaji, the Court House of the Nagpur Bench of this Court at "Nagpur, the Court House of the Aurangabad Bench at Aurangabad and the Court House of the Goa Bench at Panaji, Goa respectively."

* * * * *

¹Substituted by Notification No. P. 3601/1982, Dt. 29-4-1983.

CHAPTER IV

PRESENTATION OF APPEALS AND APPLICATIONS

1. Institution of proceedings. — All matters which are to be instituted on the Appellate Side of the High Court shall be presented in the office of the Registrar to such person as the Registrar may, by special or general orders, authorise. The person to whom such matters are presented shall, if he accepts the same, endorse thereon under his initials the date of filing. No matter, which has not been first filed in the office, shall be brought before or presented to the Court including the Court of the Registrar.

2. Presentation of proceedings by a party in person. — The presentation of any matter or proceeding by any person not represented by an Advocate shall be made by such person personally.

¹[2A. Public interest litigation matters be placed before the Division Bench, after obtaining orders from the Honourable the Chief Justice at Bombay and from the Senior-most Judge available at the concerned Benches.]

3. Language of proceedings presented by party in person. — The memoranda of appeals, cross-objections, applications or petitions presented by the party personally may be either in Marathi or Hindi or in English :

²[Provided that the party or the Advocate shall be required to put at his expense official translations of the same in English whenever a specific order in that respect is passed.]

4. Presentation of proceedings of parties represented by Advocates. — The presentation of any matters or proceedings on behalf of a party by an Advocate shall be made by such Advocate personally or by his recognized clerk.

5. Language and other requirements of proceedings presented by Advocates. — The memoranda of appeals, cross-objections, applications or petitions presented by Advocates shall be in English, and shall be signed by the Advocate concerned or by any other Advocate on his behalf provided that the Advocate concerned ratifies the same by affixing to it his signature within one week of the date of its being filed in Court.

6. Advocates appearance prior to filing of Vakalatnama. — 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 statement signed by him slating that he has instructions from 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. (i) Ratification of acceptance of Vakalatnama by the Advocate concerned when endorsement of acceptance is made by another. — Where an endorsement of acceptance on

1. Added vide Mah. Govt. Gazette, Dt. 26-9-1996, Pt. 4-C, pg. 432

2. Substituted by Notification No. P. 3603/1986, Dt. 6-8-1986.

the Vakalatnama has been made by any other Advocate on behalf of the Advocate concerned, the latter shall ratify the acceptance of the Vakalatnama within one week of its being filed by putting his own signature to it.

(ii) Subsequent change in Advocate's address to be notified to office. — Any change in the Advocate's address subsequent to the filing of the matter or the proceedings during the pendency of the same shall immediately be notified to the office by the Advocate.

8. Consent of Advocate on record necessary before another Advocate Files appearance. — An advocate shall not be permitted to file appearance in any matter or proceeding if there is already an Advocate on record, unless he produces a written consent of the Advocate on record:

Where such consent is not necessary. — Provided that no such consent shall be necessary where the Advocate on record has been suspended or removed from practice, or has ceased to practice, or has been rendered incapable of practising on account of physical or mental incapacity or any other cause; and

Court may dispense with such consent. — Provided further that the Court may in any appropriate case dispense with such consent, if it deems fit to do so.

9. Office to raise objection of limitation where necessary copies are not filed within limitation. — The office shall note in particular whether a certified copy of the ¹judgement or order which is required to be filed along with the appeal or the application for a valid presentation thereof is filed within the period of limitation prescribed for the appeal or the application. If it is found that such copy is not filed within the prescribed period of limitation, the office shall treat that the matter as filed beyond the period of limitation.

[**Note.** — (i) Attention is invited to sub-section (2) of section 12 of the Limitation Act, 1963, which provides that in computing the period of limitation for an appeal or an application for leave to appeal or for revision or for review of a judgment, the day on which the judgment complained of was pronounced and the time requisite for obtaining a copy of the ¹[judgment], sentence, or order appealed from or sought to be revised or reviewed shall be excluded.

Attention is also invited to Rule 20 of Order XX of the Code of Civil Procedure, 1908, as amended by the High Court) end Rule I (amended) of Chapter XIII of the Bombay High Court Appellate Side Rules, 1960, which permit a party to apply for certified copies by post.

Where a party applies for a certified copy by post other than registered post, the date of its receipt by the office of the Court would be the date of the presentation of the application. Whenever such application is made by registered post, the same shall be prepaid for acknowledgment and the date of posting of the letter would be the date of presentation of the application to the Court.

(ii) Attention is also invited to the Explanation added at the bottom of section 12 of the Limitation Act, 1963, which provides that in computing the time requisite for obtaining the copy

1. Substituted by Notification No. P. 3601/2007, Dt. 18-8-2007.

of a ¹[judgment] or order any time taken by the Court to prepare the ¹[judgment] or order before an application for copy thereof is made shall not be excluded.]

10. (i) Statement showing matter is within limitation to accompany matter. — Every matter presented to the Court shall be accompanied by a statement showing how the same is within the period of limitation prescribed for it.

(ii) Matters beyond limitation to be accompanied by application for condonation of delay. — If it is beyond the prescribed period of limitation it shall be accompanied by an application for condonation of the delay stating the circumstances under which the delay has occurred and the grounds for excusing the same.

(iii) Office not to accept matters not in conformity with the rule, - Any matter not complying with the requirements of this rule shall be not accepted by the office.

11. (i) Registrar to be moved within seven days by a note against refusal to accept on the ground of limitation. — The Advocate or the party aggrieved by the refusal of the office to accept the matter under the foregoing rule may, within a period of seven days from such refusal, require by a note that the matter be placed before the Registrar for orders regarding the question of limitation. When such note is presented the matter shall, forthwith be placed before the Registrar for orders, If the matter is not placed before the Registrar within three days from the filing of the note, the party of the Advocate shall move the Registrar for orders on the note.

(ii) Court to be moved within seven days by a note against Registrar's order. — If the Registrar upholds the contention of the office, and if the Advocate or the party is dissatisfied with the order of the Registrar, he shall file a note within seven days from the date of the order of the Registrar for placing the matter before the Court for revision of the Registrar's orders, and the office shall forthwith place the matter before the Court. If the office fails to place the matter before the Court within three days from the filing of the note, the party or the Advocate shall move the Court for orders on the note.

12. (i) Accompaniments to memorandum of appeal. — Every memorandum of appeal shall be accompanied by a certified copy of ¹[****] the judgment ²[or order] under appeal, together with one typed copy of the judgment or order in the case of a single Judge matter and two typed copies of the judgment or order in the case of a Division Bench matter.

The Office may, however, accept the memorandum of appeal without such typed copy or copies, as the case may be, provided the Advocate for the appellant gives an undertaking to file the same if the appeal is required to be placed before the Court for orders before the prints are received.

(ii) Accompaniments to memorandum of appeal in appeals from appellate decrees. — In the case of appeals from appellate decrees, the memorandum of appeal shall also be accompanied by

1. Substituted by Notification No. P. 3601/2007, Dt. 18-8-2007

2. Deleted & Added by Notification No. P. 3601/2007, Dt. 18-8-2007.

the certified copies of ¹[****] judgment ¹[or order] of the trial Court and of the grounds of appeal and cross-objections, if any, in the lower appellate Court, together with one typed copy of each of the same.

The Office may, however, accept the memorandum of appeal without such typed copy, provided the Advocate for the appellant gives an undertaking to File the same if the appeal is required to be placed before the Court for orders before the prints are received.

(iii) Where, however, any of the accompaniments mentioned in sub-rules (i) and (ii) are not in English, typed copies of translations in English of such accompaniments shall be annexed.

² [Provided that such translations would not be necessary if the documents are in Marathi and if the party or the Advocate undertakes that English translations would be supplied whenever an order in that respect is made by the Court in a particular proceeding.]

³[12A. The appeal memo under the Motor Vehicles Act, 1988, filed under section 173 of the said Act, shall be accompanied by a certificate by the Registrar of the High Court that a sum of Rs.25,000 (Rupees Twenty Five Thousand only) or 50 per cent whichever is less of the amount awarded by the award appealed from has been deposited by the appellant in the High Court. The appeal which is not accompanied by such a certificate shall be placed before the Registrar for orders.]

13. Deleted.

14. Accompaniments in appeals from orders. — Appeals from orders under section 104 and Order XLIII, Rule I of the Code of Civil Procedure shall, in addition to the accompaniment prescribed in rule 12 above, be accompanied by copies of all other relevant documents referred to in the order and also those on which the appellant wishes to rely.

15. Additional copies to be filed in appeals. — When presenting any appeal, an additional typed copy of the memorandum of appeal, and in appeals which are required to be placed before Division Bench, a set of typed copies of the judgments of the lower Courts paged in accordance with the certified copies shall be supplied.

16. Value of claim to be shown in the memorandum, at the time of filing. — The value of the claim in appeal or in cross-objection shall be shown in the memorandum of appeal or of cross-objections at the time of the presentation of such memorandum and it shall, where necessary, be stated by way of a foot-note how the valuation has been arrived at.

17. Full court-fee to be paid or deposited at the time of presentation of the matter. — The full court-fee payable on the appeal, cross-objection, application or petition shall be paid at the time of presenting the same and if for any reason the required court-fee stamp is not available, the amount of the court-fee shall be deposited in Court before presenting the matter for

1. Deleted & Added by Notification No. P. 3601/2007, Dt. 18-8-2007.

2. Added by Notification No. P 3603/1986, Dt. 6-8-1986.

3. Added by Notification No. P.3604/1990, Dt. 18-12-1990.

acceptance, and a receipt of the amount so deposited shall be annexed to the memorandum of appeal, cross-objection, application or petition.

An appeal, cross-objection, application or petition in which full court-fee is not paid shall be accompanied by an application praying for time to pay the deficit court-fee and such appeal, cross-objection, application or petition shall be accepted by the office only in accordance with the orders of the Registrar on such application for time.

18. Difference in Court-fee paid in this Court and in lower Court to be explained by foot-note at the time of presentation of matter. — When the court-fee paid on or the valuation stated in the memorandum of appeal differs from that paid or stated in the lower Court, the difference shall be fully accounted for in a foot-note to the memorandum or appeal at the time of the presentation of such memorandum and the party or the Advocate shall also at the same time furnish all information and material necessary to explain the difference.

19. (i) Accompaniments in Civil Revision Applications. — Every application for the exercise of revisional jurisdiction of the High court shall be accompanied by a certified copy of ¹[****] judgment ¹[or order] complained of.

(ii) Accompaniments in case of appellate decrees or orders sought to be revised. — If the order sought to be revised is an appellate decree or order, it shall be accompanied by certified copies ¹[****] judgment ¹[or order] of the trial Court and the memorandum of appeal and of cross-objections, if any, filed in the lower appellate Court.

(iii) Where accompaniments are lacking, the application to be accompanied by affidavit. — Where any of the accompaniments mentioned in sub-rules (i) and (ii) are lacking, the application shall be accompanied by an affidavit of the party settling out fully the efforts he had made to secure the copy or copies and how he has not been able to secure the required copy or copies in spite of his best endeavours.

(iii-A) English Translation of accompaniment. — Where, however, any of the accompaniments mentioned in sub-rule (i) and (ii) are not in English, typed copies of translations in English of such accompaniments shall be annexed:

² [Provided that such translations would not be necessary if the documents are in Marathi and if the party or the Advocate undertakes that English translations would be supplied whenever an order in that respect is made by the Court in a particular proceeding.]

(iv) Office not to accept matters not in conformity with the rule. — Any matter not complying with the requirements of this rule shall not be accepted by the office

20. Accompaniments in Revision Application against interlocutory orders. — Revision Applications against interlocutory orders shall in addition to the accompaniments prescribed in

1. Deleted & Added by Notification No.P.3601/2007, dated 18-8-2007

2. Added by notification No. P.3603/1983, dated 6-8-1986

the foregoing rule, be accompanied by copies of all other relevant documents referred to in the order and also those on which the applicant wishes to rely.

¹[**20-A.** Wherever filing of certified copy of the impugned judgment ²[or] order ³~~[decree or]~~ is essential for valid presentation of any appeal, revision or application, according to the Rules, notwithstanding such requirement, filing of copies, certified as true by the Advocate presenting the memorandum of appeal, revision or application shall be taken as substantial compliance, if the matter is very urgent.]

21. Facts not set out in decree, order or judgment sought to be revised to be supported by an affidavit. — Every fact stated in any application for the exercise of the revisional jurisdiction not set out in the decree or order or judgment sought to be revised shall be supported by an affidavit.

22. (i) Limitation for Revision under Letters Patent, etc. — Applications for the exercise of the revisional jurisdiction of the High Court under Letters Patent or under any special or local law for which no period of limitation is prescribed by any such special or local law shall be presented within 90 days of the date of the decree or order sought to be revised. The time required for obtaining certified copies of the judgment or decree or order sought to be revised shall be excluded in computing the said period of 90 days.

(ii) Court may condone delay for sufficient cause. — The Court may for sufficient cause excuse delay in the presentation of an application referred to in sub-rule (i) above.

23. (i) Accompaniments to application for review. — Every application for review shall be accompanied by a typed copy of the judgment and ³~~[decree or]~~ order sought to be reviewed and in cases where a review is required to be heard by a Division Bench, by two sets of such copies.

(ii) Accompaniments where review proceeds on discovery of fresh evidence. — When an application for review proceeds on the ground of discovery of fresh matter or evidence, the documents if any, relied upon shall be annexed to the application with a list in Form No. 5, Appendix H, Schedule I of the Code of Civil Procedure, together with an affidavit setting forth the circumstances under which such discovery has been made.

⁴**(iii) 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 :—

1. Added by notification No. P. 4501/1988, dated 27-11-1990

2. Added & Delete notification No. P. 3601/2007, dated 18-8-2007

3. Deleted by notification No. P. 3601/2007, dated 18-8-2007

4. Inserted by notification No. P.3601/1992, dated 2-12-1992 and the previous sub-rule (iii) is renumbered as (iv)

CERTIFICATE

I, Advocate for the abovenamed..... Review Petitioner herein, do hereby certify that, in my judgment, ground (or if there be several, such of the grounds) of 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.....

(iv) Where fresh Vakalatnama is not necessary. — It shall not be necessary for an Advocate who had filed a vakalatnama at the original hearing to produce a fresh vakalatnama in order to entitle him to apply for or to appear in the review. However a statement to that effect shall be filed by the Advocate.]

24. (i) When Civil Applications should be supported by affidavits, — All Civil Applications excepting those mentioned below shall be supported by affidavits :—

- (a) Application for fresh service of notice at the same address which is within time.
- (b) Application for leave to appeal to the Supreme Court.
- (c) Application for leave to appeal under Clause 15 of the Letters Patent
- (d) Application for review where the only ground for review is a mistake or error apparent on the face of the record.

(ii) Special provision in regard to Civil Revision Applications. — Notwithstanding anything contained in this rule, an application for the exercise of the revisional jurisdiction of the High Court need not be supported by an affidavit except to the extent provided in rule 21 of this Chapter.

(iii) Registrar's power to dispense with affidavits, — The Registrar may by a general or special order dispense with affidavits in particular cases or particular classes of cases.

(iv) Where affidavit is not filed in time the matter to be immediately placed before Registrar for orders. — Where a party or an Advocate fails to remove office objections relating to the filing of the affidavit within the time allowed in that behalf, the matter shall be placed for orders before the Registrar immediately after the expiry of the said period. The Registrar may either dispense with the filing of the affidavit or pass such other order or orders as he may deem necessary.

25. Registrar's powers to dispense with copies already on record of High Court and in execution appeals. — "Notwithstanding anything contained in the foregoing rules of this

Chapter the Registrar may upon request by a party or an Advocate made at the time of presenting the memorandum of appeal, cross-objection, application or petition dispense with the filing of certified copies of judgments, orders or decrees which are required to be filed under these rules, when such copies or the originals thereof are already on the record, of the High Court. The Registrar may similarly dispense with certified copies of .decrees under execution in execution appeals, if the party or the Advocate gives in writing that the same will not be necessary for the purposes of the appeal.

26. How memoranda of appeals, copies etc. should be typed. — All memoranda of appeals, cross-objections, applications, petitions, affidavits and all copies supplied by the Advocates or parties shall be neatly typed with double space the ¹[Superior quality A4 size paper having not less than 75GSM 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.] Sufficient blank space shall be left at the top for affixing court-fee stamps. No court-fee stamps shall be affixed in the margin. The copies supplied for the use of the Court and for service on the opposite parties shall accord with the original and shall be clearly legible. All notes filed shall be at least on half ²[Superior quality A4 size paper having not less than 75 GSM printing on both sides of the paper.]

27. Powers of the office to reject papers not properly typed or not in conformity with rules. — The office may refuse to accept any such papers which are not typed as prescribed or which do not conform to the requirement of rule 26 above.

28. Party in person to supply address and postage, if desiring information regarding his matter by post. — At the time of presentation, the party in person shall supply a memorandum of his address to which communications regarding the matter presented by him should be addressed by the office and sufficient postal stamps for the postage and registration charges.

³**[29. Advocates not ordinarily practising in High Court to leave written instructions and supply necessary postage, if desiring information regarding their matters by post.** — Advocates who do not reside or have their Office within the limits of Greater Bombay/Nagpur City/Aurangabad City or Panaji should have, in respect of their appearances in the High Court or its Benches at Nagpur, Aurangabad or Panaji as the case be, a recognised clerk attached to the High Court or its benches at Nagpur, Aurangabad or Panaji duly registered as such with the Office of the Registrar or Additional Registrar ⁴[or the Special Officer] as the case be. Service on such clerk, shall be deemed to be service on the Advocate.]

1. Substituted by notification No. P. 1604/2021, dated 6th July 2021

2. Substituted by notification No. P. 1604/2021, dated 6th July 2021

3. Substituted by notification No. P. 3602/1988, dated 6-10-1988

4. Previously Amended by notification No. P. 3602/1988, dated 30-7-1990. Now deleted vide Mah. Govt. Gazette, dated 26-9-1996, Pt-4C, Pg.431.

30. 'Advocate' to include 'attorney' unless otherwise required. — The expression 'Advocate' wherever it appears in the Bombay High Court Appellate Side Rules, 1960 shall include an attorney authorised to appear in Court, unless the context otherwise requires.

¹[30A. In matters wherever copies or typed copies are required to be filed under any of the High Court Appellate Side Rules, 1960 (Reprint 1981) ²[photocopy] may be filed provided the same are legible and unmarked.]

31. Registrar's power to accept a matter not complying with the Rules and to grant time for such compliance. — Notwithstanding rules 6, 10, 12, 17, 19 and 27 in this Chapter, the Registrar may, if he deems fit, on application of a party or his Advocate, direct the office to accept a matter not complying with the above rules and grant time to the party or his Advocate not exceeding 14 days for such compliance.

32. Caveat Rules.

(Order XL-A of Civil Procedure Code)

1. Every Caveat under section 148-A shall be signed by the Caveator or his Advocate and shall be in the form prescribed.

2. Every Caveat shall be presented by the party in person or by his Advocate to the Court or to the Officer authorised to receive the Caveat. Where the Caveator is represented by an Advocate his Vakalatnama shall accompany the Caveat. 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 from 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.

3. The Caveat presented under Rule 2 shall be registered in a Caveat Register in Form given below. Before an application for any relief is made to the Court in any proceedings, it shall bear an endorsement from the office of the Court whether a Caveat has or has not been filed.

4. (1) A copy of the Caveat shall be served along with the notice required to be served under section 148-A(2).

(2) On receipt of the notice of the Caveat, the applicant or his Advocate shall intimate to the Caveator or his Advocate, the expenses for furnishing the copies and request him to collect the copies on payment of the said expenses. The said expenses should be at the rate of 25 paise per folio of 100 words inclusive of cost of paper.

1. Added by notification No. P.3604/1985, dated 6-10-1990

2. Substituted vide notification No. P.3602/2010, dated 18-6-2010

5. Every application for any relief in a proceeding should be supported by a statement on oath of the applicant stating that no notice under section 148A(2) is received by him or if received whether the applicant has furnished the copies of the application together with the copies of the papers or documents which have been filed or may be filed in support of the application to the Caveator as required by section 148A(4).

6. A notice under section 148A(3) may be served on the Caveator or his Advocate personally or by post under certificate of posting. The notice sent under certificate of posting at the address furnished by the Caveator shall be deemed to be sufficient service on him.

7. Where it appears to the Court that the object of granting ¹[ad] interim relief on the application would be defeated by delay, it may record reasons for such opinion and grant ²[ad] interim relief on the application of the applicant till further orders, ³[after] giving the Caveator an opportunity of being heard.

(FORM OF CAVEAT)

IN THE COURT OF

AT

SUIT/PETITION/APPEAL NO.....20.....

In the matter of Caveat under section 148-A of the Code of Civil Procedure.

..... Caveator.

Prays that no orders be passed without due notice under section 148-A of the Code of Civil Procedure to the Caveator above named on any application for (State in short reliefs to be prayed for) in Suit/Petition/ Appeal No. of 20..... of this Court (or in a suit/ Petition/Appeal likely to be filed in this Court) wherein..... is/may be Plaintiff/Petitioner/Appellant and is/may be the Defendant/Respondent.

The Caveator's address for service is

1. Substituted by notification No. 3601/1982, dated 26-7-1982
2. Substituted by notification No. 3601/1982, dated 26-7-1982
3. Substituted by notification No. 3601/1982, dated 26-7-1982

The Caveator undertakes to the Court to give notice by Registered Post A.D. to the Plaintiff/Petitioner/Appellant abovementioned, at the following address.....

Caveator.

REGISTER OF CAVEAT (O.XL-A, R.3)

COURT OF THE.....OF.....AT

REGISTER OF CAVEAT IN THE YEAR 20

Serial No	Date of Caveat	Name of Caveator and his address for service	Nature of proceeding anticipated by Caveator and its number if same is filed	Name of Plaintiff Applicant in the proceeding column No.4	Name of defendant Respondent in proceeding in column No.4	Date and number of proceeding filed as anticipated by Caveator	Date of notice served on Caveator	Remark
1	2	3	4	5	6	7	8	9

¹[CHAPTER IV – A

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 scrutinise 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 Appellate Side Rules, 1960 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*.

²[2.1. So far as Aurangabad/Nagpur Bench is concerned, in case, a member of the Committee proceeds on short/long leave, the Seniormost Deputy Registrar, who must be a Law Graduate, shall act as a member of the Committee, in lieu of the absentee Judicial Officer on short/long leave, with exception that the Report would have to be forwarded by the Registrar Administration/Judicial.”]

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.

1. Inserted vide High Court Notification No. P. 1602 / 2015, dated 09th September, 2015, published in M.G.G., Part 4-C, dated 17th – 23rd September, 2015.

2. Inserted vide Notification No. P.1602/2017, dated 06th September,2017

(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 think 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.]

CHAPTER V

PROCEDURE AFTER PRESENTATION, REMOVAL OF OFFICE OBJECTIONS. ETC.

1. Cancellation of stamps. — The court-fee stamps on all the memoranda of appeals or cross-objections, on applications and other documents presented in the office shall be cancelled on the day of presentation or within a reasonable time from the date of presentation, but invariably before the document is filed or registered.

2. When enquiry need not be made regarding difference in court-fee paid. — When the court-fee paid on an appeal is found to correspond with the court-fee paid and accepted in the Court below, no further enquiry need be made, unless it appears that the court-fee has been assessed on a mistaken principle and that a different court-fee stamp is required on the appeal.

3.(i) Procedure for and the manner of examining matters filed. — The office shall examine every memorandum of appeal or cross-objections and every application as soon as possible after it is filed and prepare in duplicate a memorandum of objections in regard to the same. Where the objection relates to the valuation of the claim made in the memorandum of appeal or cross-objections or in any application or to the court-fee to be paid on such memorandum of appeal or cross-objections or application or on any copy or documents required to be Filed therewith, the office shall state what in its opinion the correct valuation is and what the correct amount of court-fee payable is. Such memorandum of objections shall be made ready within ten days from the date of Filing, provided that, in respect of matters filed on the reopening day of the High Court after the Summer Vacation such memorandum may be completed within 21 days from the date of Filing.

(ii) Manner of notifying office objections. — As soon as the memorandum of objections is ready the office shall notify the matter on the Notice Board under the signature of the Assistant Registrar calling upon the party or the Advocate concerned to remove the office objections within 14 days from the date of such notification. The matters shall be notified with reference to ¹[~~the stamp numbers or the Register Numbers, as the case may be,~~] the District from which they arise and the names of the Advocates, if any. A copy of the notice shall be kept filed in the office, and a copy of the same shall also be supplied to the Advocates Association of Western India. The office shall also endorse on the memorandum of objections and its duplicate the date on which the matter was notified as above.

(iii) Period within which office objections should be removed. —The Advocates or the parties concerned shall receive from the office a copy of the memorandum of objections after acknowledging receipt thereof and shall remove all the objections within the 14 days allowed under the foregoing sub-rule.

(iv) Special provision for party appearing in person. —Notwithstanding anything contained in the foregoing sub-rules, where a party appears in person, the, office shall arrange to give him under acknowledgement the memorandum of objections on the very day on which the presents

¹ .Deleted by Notification No. P.3601/2018, dated 05-10-2018

the matter, unless the party agrees to call at a later date, in which case the office may give him a fixed date convenient to him (but not later than ten days from the date of the presentation of the matter) on which he should call at the office for receiving the memorandum of objections, and the office shall keep the memorandum of objections ready on the said day and deliver it to him under acknowledgment. The party in such cases shall be required to remove the objections within 14 days from the date of the receipt of the memorandum of objections. In case the party fails to turn up on the appointed day, the procedure prescribed under sub-rule (ii) and (iii) shall be followed.

4. (i) Manner of dealing with office objections relating to claim and court-fee. — Where the objection relates to the amount of claim in respect of any memorandum of appeal or cross-objections of any application, or where the objection relates to the amount of court-fee to be paid on any memorandum of appeal or cross-objections or any application or on any copy or document required to be filed with the memorandum or the application, the party or the Advocate shall amend the claim or make good the deficit court-fee within the period of 14 days allowed under the foregoing rule. If he disputes the office objection, he shall file within the said period a note stating how the objection raised by the office is not tenable and how the claim stated by him or the court-fee paid by him is the correct one. In either case the objection shall be deemed to have been removed

(ii) Dispute regarding claim or court-fee to be referred to the Taxing Officer. — Where a note has been filed disputing the office-objection in relation to the claim or the court-fee under the foregoing sub-rule, the office shall, unless it is satisfied with the explanation given by the party or the Advocate, refer the matter, within three days from the filing of the note to the Taxing Officer for deciding the dispute.

(iii) Taxing Officer to decide dispute within 14 days. — The Taxing Officer shall decide the dispute referred to him within 14 days from the date of reference.

(iv) Procedure where the decision of the Taxing Officer is accepted.— if the decision of the Taxing Officer is against the party or the Advocate and if he accepts the decision of the Taxing Officer, he shall accordingly amend the claim or make good the deficit court-fee within 14 days from the date of the decision of the Taxing Officer.

(v) Procedure where the decision of the Taxing Officer is disputed. — If the party or the Advocate disputes the decision of the Taxing Officer, he shall make the necessary Revision Application against the decision of the Taxing Officer to the Court and shall amend the claim or make good the deficit court-fee, if so required, as per the decision of the Court within 14 days from the decisions of the Court.

(vi) Registrar to refuse registration If claim is not amended or deficit court-fee is not made good within time allowed. — If the party or the Advocate fails to amend the claim or make good the deficit court-fee within the period prescribed therefor under sub-rules (iv) and (v), the Registrar shall refuse registration of the matter.

(vii) All other objections to be removed within time prescribed though dispute regarding claim or court-fee is not finally decided, — Notwithstanding that the objection regarding claim or court-fee is not finally decided, the party or the Advocate shall be bound to remove all other objections within the prescribed time.

5. Registrar to refuse registration where objections are not removed within prescribed time. — Except as provided in Rule 4, immediately after the expiry of the period prescribed under Rule 3 for the removal of office objections, the office shall place before the Registrar all such matters in which all or any of the objections have not been removed within the prescribed time and the Registrar shall refuse registration of all such matters:

Registrar's Powers to condone delay and order registration. — Provided, however, that, if the party or the Advocate removes all objections within a period of 14 days next after the expiry of the period prescribed under Rule 3 and also makes a regular application with the necessary court-fee stamp for excuse of delay in removing the objections, the Registrar may excuse the delay and order that the matter be registered:

Social provisions when objections are removed within the period of limitation prescribed by the Limitation Act. — Provided further that if a matter is still within the period of limitation allowed under the Limitation Act, 1963, even though the period prescribed under Rule 3 may have expired, no regular application with the necessary court-fee stamp for excusing the delay shall be necessary, but that an ordinary note explaining the position under the Limitation Act, 1963, and requesting that the matter be registered would be sufficient, and the Registrar, if satisfied that the matter is still within the period of limitation prescribed by the Limitation Act, 1963 shall order the matter to be registered.

6. Procedure for revision of the Registrar's order refusing registration. — Notwithstanding anything contained in Rule 7 of an order of the registrar refusing registration of any matter under the foregoing rules of this Chapter shall be revisable only upon a regular stamped application which shall be filed within seven days from date of the order of the Registrar complained of, provided that the Court may, for good cause shown, condone the delay in making the application. Such application shall, unless dispensed with by the Court, be supported by an affidavit explaining the circumstances under which the objections could not be removed within the time allowed.

7. Registration of matters. — Where all office objections are removed within the time prescribed by Rule 3 or the delay has been excused under Rule 5 or 6, the officer shall take orders from the Assistant Registrar for admission of the matter to the file after which the matter shall be immediately entered in the appropriate register. Such matter shall be entered in the register and shall be numbered in accordance with the serial number of sequence of the entries in the register.

8. Registration of matters under Special Acts. — Appeals presented under Special Acts, such as the Indian Succession Act (XXXIX of 1925), the Guardians and Wards Act (VIII of 1880), etc. shall be registered in the ordinary way as First or Second Appeals, as the case may be.

9. Papers to be returned when registration is refused. — Whenever registration of any appeal, memorandum of cross-objection or application is for any reason refused by the Registrar, the papers shall be returned to the party or the Advocate who presented the same.

10. Kinds of registers to be maintained. — The office shall maintain separate register for each of the following classes of proceedings for each calender year:—

- (i) First Appeals.
- (ii) Second Appeals.
- (iii) Letters Patent Appeals.
- (iv) Appeals from Order.
- (v) Civil Revision Applications.
- (vi) Special Civil Applications under Articles 226, 227 and 228 of the Constitution.
- (vii) Civil Applications for Interlocutory Orders.
- (viii) Miscellaneous Civil Applications.
- (ix) Civil References.
- (x) Proceedings under the Companies Act.
- (xi) Register of cases not Prosecuted.
- (xii) Register of Transferred Suits.
- ¹[(xiii) The Family Court Appeals.]
- ²[(xiv) Contempt Petitions.
- (xv) Contempt Appeals.
- (xvi) Review Petitions.
- (xvii) Tax Appeals.
- (xviii) Arbitration Petitions.
- (xix) Public Interest Litigation Matters]

11. Special procedure where matters are required to be placed before Court before removal of objections. — Notwithstanding anything contained in the foregoing rules, any matter which a party or an Advocate requires to be placed before the Court before the removal of office objections, shall be registered subject to office objections and may, subject to the special or general orders of the Court taking such matters, be placed before the Court, provided the party, where he appears in person, and in other cases the Advocate, undertakes in writing personally to remove the office objections including objections in regard to court-fee. If any such matter placed before the Court is admitted, the office shall specify all the objections within seven

1. Added by Notification No. 3604/90 dt. 27-11-1990.

2. Added by Notification No. P. 3604/2000, Dt. 3-8-2000, published in Govt. Gazette, Dt. 7-9-2000, Part 4-C, Pg. 375.

days from the date of the order admitting the matter and the party or the Advocate, as the case may be, shall remove the office objections within 14 days from the date of the Court's order admitting the matter failing which the matter shall be placed before the Court which may dismiss it for want of prosecution:

Certain objections to be waived where the matter is summarily rejected. — Provided that where such matter is dismissed summarily, all objections, excepting those relating to court-fee and Vakalatnama and those of which the objections relating to court-fee are based, shall be waived.

12. Where certified copies are not supplied within ten days, explanation to be called from lower Court. — If in any case the time shown by the endorsement to have been occupied in obtaining a copy of the decree, judgment or order is found to be greater than 10 days. an explanation of the delay should be obtained from the lower Court and Registrar should submit the same, if he considers it necessary, to one of the Administrative Judges.

13. (i) Refund of excess of court-fee paid through inadvertence etc. — If it appears to the office at any time that a court-fee of greater value than is required has been affixed to a memorandum of appeal or cross-objections or to an application through inadvertence, mistake, or miscalculation, the matter shall be placed immediately before the Taxing Officer and upon his so certifying, a refund certificate shall be granted to the party or the Advocate, before admitting the matter to the appropriate register.

(ii) Refund of excess of court-fee on conversion of one kind of proceeding into another. — If as a result of one kind of proceeding being converted into another under the order or with the permission of the Court a lower court-fee becomes payable on the converted proceeding, a refund certificate for the amount of difference between the amount of court-fee paid on the original proceeding and that payable on the converted proceeding shall, after obtaining the orders of the Taxing Officer, be granted to the party or the Advocate concerned before admitting the converted matter to the appropriate register.

(iii) Refund of court-fee paid through oversight where party is entitled to exemption. — If it is found that in any case a party entitled to any statutory exemption in respect of court-fee has paid any court-fee which the party was exempt from paying, a refund certificate for the amount of court-fee covered by the exemption shall, after obtaining the order of the Taxing Officer, be granted to the party or the Advocate concerned, before admitting the matter to the appropriate register:

Special powers of the Registrar in the matter of refund of excess of court-fee. — Provided that the Registrar on a note being presented to him by the party or the Advocate concerned in this behalf shall have the power to order the issue of the necessary certificate under sub-rules (i), (ii) and (iii) notwithstanding that the matter has been admitted to the register before granting the refund certification required, and

No certificate of refund in respect of sums less than Rs.3. — Provided further that no such certificate shall be granted under sub-rules (i) and (ii) for any sum less than Rs. 3 in any one case.

(iv) Amount of court-fee refunded to be endorsed on document. — Where the refund certificate is granted in respect of the whole or part to any amount of court-fee, a statement of the amount of refund shall be annexed or endorsed under the signature of the Registrar on the document to which such court-fee stamps were affixed.

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CHAPTER VI

APPEALS UNDER CLAUSE 15 OF THE LETTERS PATENT

1. Deleted.

2. Accompaniments to appeal. — A Letters Patent Appeal shall be accompanied by the following papers :—

- (i) A typed copy of the memorandum of the Letters Patent Appeal.
- (ii) Two typed copies of the memorandum of the original appeal.
- (iii) If the Letters Patent Appeal is from the decision of an application, two typed copies of the application.
- (iv) If the Letters Patent Appeal is from an appellate decision, two typed copies of the lower Court's judgments.
- (v) Two typed copies of the judgment of this Court where judgment has been delivered.

3. Appeal to be placed before Division Bench for admission. — Appeals under clause 15 of the Letters Patent shall be placed for admission before a Division Bench.

4. No fresh Vakalatnama where Advocate appeared in original proceeding. — An Advocate who has appeared at the original hearing may file and appear in appeals without filing fresh Vakalatnama. Provisions of Order XLI, Civil Procedure Code and rules regular appeals to apply to Letters Patent Appeals. — Except as otherwise provided in this Chapter, the provisions of Order XLI of the Code of Civil Procedure and the rule herein contained applicable to regular appeals shall apply to Letters Patent Appeals.

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CHAPTER VII

PROCESSES, PROCESS FEES, PRINTING CHARGES, SECURITY FOR COSTS AND OTHER PROCEDURE AFTER ADMISSION

¹1. Taxing of process fees and printing charges. — The Office shall tax process fees and the printing charges as follows:—

(a) Every petitioner, appellant or applicant shall pay process fees as prescribed in Rule 5(1)(a) of Chapter XIV of these rules at the time of institution of such proceeding.

(b) A petitioner, appellant or applicant shall not be required to pay process fees again till the proceeding is finally disposed of irrespective of whether processes are required to be issued again.

(c) Office shall tax printing charges within 3 days from the date of order directing payment of printing charges.

(d) Party shall deposit printing charges within 14 days from the date of taxing.]

¹[2. Supply of copies of memorandum of appeal, petition etc.

(i) In appeals, civil revision applications and other substantive applications, the appellant or the applicant shall along with the process fees, supply as many copies of the memorandum of appeal or application, together with copies of affidavits, if any, as there are respondents or opponents for service on respondents or opponents. The Registrar may, in appropriate cases, grant leave to file lesser number of copies.

(ii) In appeal from orders, the appellant shall supply all the papers referred to in Rule 14 of Chapter IV in such number as is necessary to serve upon all the respondents.

(iii) **Matter to be dismissed for non-prosecution in case of default of payment of process fees and failure to supply copies** – Immediately after the expiry of the time prescribed in the foregoing sub-rules of this rule for the supply of copies, the office shall place before the Registrar all such matters in which the process fees have not been paid and / or the copies have not been supplied within the prescribed time and the Registrar shall dismiss all such matters for failure to prosecute:

Registrar's powers to excuse delay in supply of copies.

Provided, however, that, if the party or the advocate supplies the necessary copies within a period of fourteen days immediately after the period prescribed for the same under the foregoing sub-rules of this rule and also makes a regular application with the necessary court fee stamp for excusing the delay, the Registrar may excuse the delay and order that the process be issued.

¹ . Substituted by Notification No. P 3601/2006, published in M. G. G. dt. 02-11.2006., Pt. 4-C, Pages 142-143.

IV. Stay order not to be communicated unless process fees are paid and copies are supplied –

No communication of any *ex-parte* order of the kind mentioned in rule 1(c) above shall be sent by writ or otherwise to the Lower Court, Tribunal or Authority or to the opposite party, unless process fees are paid and the necessary number of copies of the memorandum of appeal and / or application, as the case may be, together with the copies of affidavits, if any, prescribed in sub-rule (i) above are supplied both in the main matter (if any) and in the civil application in which the *ex-parte* order is made.

V. Affected party may move court for discharge of stay order after notice to other party –

A party against whom an *ex-parte* order of stay or injunction has been passed by the Court shall be entitled to approach the Court for getting the said order discharged, after giving 24 hours' notice to the party or parties who are likely to be affected by such order of discharge, if it is passed by the Court.]

3. Date of hearing in notice to respondent or opponent. — Subject to such general or special orders as may be made by the Registrar, the date to be entered in the notice to a respondent or an opponent as the earliest possible date of hearing, shall be not less than three months from the date of issue of the notice in First Appeals, two months in Second Appeals and one month in Short Notice or Expedited Matters, unless the Court orders otherwise.

¹**[4. Service of notice on respondents residing in Greater Bombay.**— (1) Notice shall be sent for personal service to the party on his registered address. However, in addition the Court may in a particular case direct service of notice by registered post, acknowledgement due.]

(2) When an acknowledgment purporting to be signed by the respondent or opponent or his agent is received by the Court or the postal article containing the notice is received back by the Court with an endorsement purporting to have been made by a postal employee to the effect that the respondent or opponent or his agent had refused to take delivery of the postal article containing the notice, when tendered to him, the Court issuing the notice shall declare that the notice had been duly served on the respondent or opponent:

Provided that, where the notice was properly addressed, prepaid and duly sent by registered post acknowledgment due, the declaration referred to in the sub-rule shall be made notwithstanding the fact that the acknowledgement having been lost or mislaid, or for any other reason, has not been received by the Court within thirty days from the date of the issue of the notice.

5. Personal Service of notice on a person residing in Greater Bombay shall be made through the Court of Small Causes, Bombay and on a person residing elsewhere through the Court of the

1. Substituted by Notification No. 0102/1977, Dt. 22-3-1984.

Civil Judge, Senior Division or the residing elsewhere through the Court of the Civil Judge, Senior Division or the Junior Division as the case may be within whose jurisdiction that person resides.

¹[5A. In addition to other modes, urgent orders may be sent or communicated through FAX or E-Mail, wherever such facility is available, at the cost of the party.]

6. (1) Procedure when notices are returned unserved or served by affixing. — If a notice to a respondent or opponent is returned unserved or returned served by affixing on the registered address, the following procedure shall be adopted :—

(a) List of notices returned unserved and served by affixing to be published. — The office shall, on the first working day of the week, place on the Notice-Board under the signature of the Assistant Registrar a list showing the notices that have been returned unserved and those that have been returned served by affixing at the registered addresses.

(b) Contents of the list. — The list shall state —

(i) the number of the proceeding.

(ii) the name of the Advocate for the appellant or applicant.

(iii) the name of the person on whom the notice has been returned unserved or served by affixing, showing his designation as opponent or respondent,

(iv) the date of the return, made to the Court by the Officer serving the notice, and

(v) the date on which the unserved notice or the notice served by affixing was received in the office.

(c) Publication of list to be sufficient notice. — The publication of this list on the Notice-Board shall be deemed to be sufficient intimation to the appellant or applicant, as the case may be, of non-service or of service by affixing the notice.

A copy of the list shall be given to the Advocates Association of Western India for its use.

(d) Procedure where notice is returned unserved or is served by affixing. — When the notices have been returned unserved, the party or his Advocate shall, within one month of the publication of the list, take the requisite steps for the issue of fresh notices; and where the notices have been served by affixing, the party or his Advocate shall within the aforesaid period supply postal stamps to cover the postal and registration charges.

(e) Dismissal for failure to prosecute. — Immediately after the expiry of the period prescribed under the foregoing sub-rule of this rule for taking the requisite steps for the issue of fresh notice

1. Added vide Mah. Govt. Gazette Dt. 26-9-1996, Part 4-C. Pge 432.

or for supplying postal stamps to cover the postal and registration charges, the Office shall place before the Registrar all such matters in which steps have not been taken for the issue of fresh notices or the postal stamps to cover the postal and registration charges have not been supplied within the prescribed time, and the Registrar shall dismiss the matter for failure to prosecute :

Registrar's powers to excuse delay in taking action in regard to service of notice. — Provided, however, that, if the party or the Advocate takes the requisite steps for the issue of fresh notices or supplies the postal stamps to cover the postal and registration charges within a period of 14 days next after the expiry of the period prescribed therefore under these foregoing sub-rules of this rule, and also makes a regular application with the necessary court-fee stamp for excusing the delay, the Registrar may excuse the delay and order the notices to issue.

(2) Procedure where party is reported to be dead and no action is taken within time to bring the heirs on record. — In cases where 90 days have elapsed from the reported death of any of the parties to the appeal and no action has been taken by the appellant to bring the heirs of the deceased party on record the matter shall be placed before the Registrar for orders regarding the abatement of the appeal as against the deceased party as soon as possible.

7. Matters may be brought on for hearing though respondents are not served and heirs are not brought on record, if appellant so desires. — When a notice to a respondent or opponent is not properly served or when a respondent or opponent is dead, and the appellant or applicant desires the matter to be brought on for hearing and disposal without the issue of a fresh notice or the substitution of the heirs of the deceased party, the proceeding shall not be regarded as unready merely because of the non-service on the party or the non-substitution of the heirs. The proceedings, if otherwise ready, shall be placed on the Warned List and the Weekly and Daily Boards with a note indicating that no action has been taken with regard to the non-service or the death of the party.

8. Kinds of applications which should bear process fee in addition to the prescribed court-fee. — The following applications shall bear in addition to the court-fee prescribed for such applications the prescribed process fee for service of rule or notice on the parties concerned :—

- (i) Application for fresh notice;
- (ii) Application for appointment of a guardian or next friend of a minor or lunatic;
- (iii) Application for substitution of heirs of deceased respondents or opponents;
- (iv) Application for service as majors on parties shown as minors.

9. Refund Certificate in respect of unutilized or excess stamps. — In cases where the stamps paid for process fee remain unutilized either because the service of the notice has become unnecessary owing to the voluntary appearance of the party to be served or for some other reason, and in cases where by mistake stamps of a greater value than necessary have been affixed by way of process fee, a refund certificate shall be granted to the party or his Advocate entitling him to the refund of the value of the stamps or the excess stamps, as the case may be;

Time limit for refund. — Provided that, a note to that effect is filed or motion for that purpose is made within one year from the date of the cancellation of the process stamps or before the final disposal of the case concerned, whichever is earlier.

Printing

10. (i) Where paper-books should be printed, and contents of paper-books. — In appeals other than those mentioned in sub-rule (ii) below the title-sheet, the substance and the grounds of appeal in this Court together with any note as to valuation made by the Advocate or the party below the memorandum of appeal and the judgment of the lower Court (and in the case of appeals from appellate decrees, the grounds of appeal or cross-objections, if any, in the lower appellate Court and the judgment of the trial Court) shall be got printed ¹[typed either on Manual or Electronic Typewriter or on Computer or legibly ²[Photo-copied]] in the order mentioned. Cross-objections in appeals in which printing is required shall also be printed and shall be placed immediately after the grounds of appeal in this Court:

³[Provided where the record is required to be printed for the purpose of the Appeal before the High Court and the record is in English, then extra printed copies, in addition to the number of copies required by the High Court for the use in the Court, shall be prepared;]

(ii) Where printing shall be dispensed with – Printing shall be dispensed with in appeals from orders, appeals arising out the Hindu Marriage Act and Special Marriage Act, and expedited appeals other than First Appeals and with the leave of the Court in expedited First Appeals.

(iii) Appellant to supply copies of typed paper-book and title sheet where printing is dispensed with – In appeals except Appeals from Orders in which printing has been dispensed with under sub-rule (ii) above or in which the Court has dispensed with printing, the Appellant shall supply to the office for the use of the Court two copies of the typed paper-book containing the papers specified in sub-rule (i) above in the order therein mentioned and three separate copies of the title sheets, the substance and the grounds of appeal together with the grounds of Cross-objections, if any, for the engrossing of the Decree. The paper-books shall be neatly and legibly typed with double space between lines and a five centimeter margin on strong and durable paper of foolscap size or the size corresponding to the foolscap size in the metric measure. Every tenth line shall be numbered in the margin. The paper-books shall also be properly indexed and neatly bound with pages numbered consecutively. They shall be filed within two months of the order directing notice to issue or the order of the Court to the contrary. In Appeals from Orders the Appellant shall supply 3 copies of the title sheet, the substance and the grounds of Appeal together with cross-objection if any for the engrossing of the Decree.

The three copies of the title sheet etc., for engrossing the Decree shall be similarly typed on thick bound paper and supplied along with the copies of the paper-book.

1. Added by Notification No. P. 3604/98, Dt. 1-4-1998.

2. Substituted vide Notification No. P. 3602/2010, Dt. 18-06-2010.

3. Added by Notification No. 3601/92 Dt. 27-5-1992.

(iv) Court may order respondent to furnish copies of paper-book and title sheet – Where printing is dispensed with by an order of the Court, the Court may, notwithstanding the provisions of sub-rule (iii) above, direct the respondent to furnish copies of the paper-book and the title sheet, in which case the party so directed will supply copies of the paper-book and the title sheet in the manner and within the time mentioned in sub-rule (iii).

(v) Opposite party to be supplied with copy of paper-book by the party concerned – The party concerned shall in addition furnish to the Advocate appearing for the opposite party a copy of the paper-book, and where the opposite party appears in person, deposit in the office such a copy for the use of the opposite party. Copy to be so furnished or deposited shall be an exact duplicate of the paper-book, the copies of which are supplied for the use of the Court, and shall be neatly and legibly typed in the manner indicated in sub-rule (iii) above, and shall be paged identically.

(vi) Matter to be dismissed for non-prosecution where copies of paper-book etc. are not filed within time – Immediately after the expiry of the periods prescribed under sub-rules (iii) and (iv) above for the supply of paper-books the office shall before the Registrar all such matters in which paper-books and the title sheets have not been supplied within the prescribed time, and the Registrar shall dismiss all such matters for failure to prosecute :

Registrar's powers to excuse delay in filing copies of paper-book etc. – Provided, however, that, if the party or the Advocate supplies the necessary paper-books within a period of two months next after the expiry of the period prescribed under sub-rules (iii) and (iv) above and also makes a regular application with necessary court-fee stamp for excusing the delay, the Registrar may excuse the delay and accept the paper-books.

11. (i) Cost of printing and payment thereof. — The appropriate party shall, within 14 days of the date of the order directing the issue of notice or of the date of admission, as the case may be, pay in Court-fee stamps Rs.15 per appeal and Rs.5 per cross-appeal or joint appeal or cross-objections to cover the cost of printing the judgments of the lower Courts and the memorandum of appeal or of cross-objections.

(ii) Matter to be dismissed for non-prosecution where costs of printing are not paid within time. — Immediately after the expiry of the period prescribed under sub-rule (i) above for the payment of the costs of printing, the office shall place before the Registrar all such matters in which costs of printing have not been paid within the prescribed time, and the Registrar shall (dismiss all such matters for failure to prosecute :

Registrar's powers to excuse delay in payment of costs of printing.— Provided, however, that, if the party or the Advocate pays the costs of printing within a period of 14 days next after the expiry of the period prescribed under sub-rule (i) above and also makes a regular application with necessary court-fee stamp for excuse of delay, the Registrar may excuse the delay and order the matter to be proceeded with.

(iii) Excess of unutilized amount of costs of printing to be refunded. — If the amount in court-fee stamps as specified in sub-rule (i) is paid by a party and the memorandum of appeal

and the judgment of the lower Court are, for any reason, not subsequently printed or the amount paid is found to be in excess of what is required to be paid after the matter is printed, the Registrar shall on application by the said party or his Advocate, grant to him a refund certificate enabling him to recover the value of such court-fee stamps or such excess court-fee stamps, as the case may be.

(iv) Costs of printing paid to be entered in the bill of costs. — Where the amount is paid but no portion of it is refunded the whole of such amount shall be entered in the bill of costs as costs of the appeal. Where, however, the amount paid is in excess of what is required to be paid in accordance with sub-rule (i) and such excess amount is refunded to the party or his Advocate, only the amount so required to be paid shall be entered in the bill of costs as costs of the appeal and not the excess.

(v) Supply of copies of printed paper-book free and for payment. — Each party or set of parties having the same interest shall be entitled to one copy of the printed paper-book free of costs; any additional copies shall each be charged for at the rate of 50 Paise per printed page.

(vi) Procedure where additional copies of paper-book are required.— A party requiring additional copies may, at any time before the papers are sent to the press, give notice to the Registrar's office of the number of additional copies required by him.

12. Parties supplying paper-books, entitled to costs where printing be dispensed with. — Where printing has been dispensed with and the copies have been supplied either under the rules or by the order of the Court, the party supplying the typed paper-books shall be entitled to the costs of preparing the same at the rate of 50 Paise per folio of 100 words inclusive of the costs of all the copies and paper charges for the first five copies and where more than five copies are taken out the further copies shall be separately charged at the same rate at which the first five copies are charged as above.

13. Supply of additional paper-books on reference to a larger Bench. — (1) When an appeal or application is referred to a Division Bench of two Judges or a Full Bench of three or more Judges, the appellant or applicant or his Advocate shall furnish to the office the necessary additional sets of typed copies of the paper-book for the use of the Division Bench or the Full Bench, as the case may be, within two weeks of the date on which it is so referred.

(2) The Registrar may extend the time for supplying such additional copies or excuse delay in supplying the same for a period not exceeding one week. Where copies are not supplied within the time so prescribed or extended, the matter shall be placed before the Court for orders.

14. Supply by applicants of copies of formal applications to opposite parties. — A party or an Advocate presenting an application of a formal nature in an appeal or application, shall furnish the necessary number of copies thereof for the use of the Court and shall also serve a copy on each of the opposite parties.

15. Supply of copies of affidavits and counter affidavits for use of Court and service thereof on opposite parties. — When affidavits and/or counter affidavits are filed by any party in any

matter which has been admitted, such party or his Advocate shall supply the necessary number of copies of such affidavits for the use of the Court and shall get copies thereof served on each of the opposite parties or their Advocates.

Security for Costs

16. Security for costs to be deposited with the Nazir. — When any party has been ordered to furnish security for costs, such security shall be furnished either in cash or by the deposit and transfer of Government Securities or other approved securities for the amount ordered by the Court. Such cash security shall be deposited with the Nazir.

17. Rules regarding security for costs deposited with the Nazir. — In the case of money deposited with the Nazir as security for costs under Order XLI, rule 10, Civil Procedure Code, the following rules shall be observed:—

(I) When a deposit of money has been made by the appellant in place of giving security for costs, any surplus in excess of the secured costs shall be returned to the appellant, or his Advocate, as soon as the bill of costs has been prepared and the decree issued.

(II) Deposits unclaimed for ten years after the date of the Final decree shall be credited to Government.

(III) For the purposes of these rules, the Advocate, who represented the depositor in the appeal shall be entitled to receive the refund —

(i) as a matter of course, within one year from the date of the Final decree.

(ii) on making a written-statement that his client is alive and that he still represents such client, if more than a year has elapsed from the date of the Final decree.

(IV) If a depositor dies after the decision of the appeal or application in which the deposit was made, it shall not, if in excess of Rs.200, be returned to the person claiming to be his legal representative, unless he establishes his right thereto by letters of administration, probate or a succession certificate. If the deposit is not in excess of Rs.200, the Registrar may return it to the person claiming to be the legal representative of the depositor on the production of such evidence as the Registrar may deem sufficient.

(V) Depositors of sums over Rs.500 should be advised to, and may purchase and deposit, instead of such sums, Government Securities of equal amount so as to avoid loss of interest.

(VI) A list of all moneys in deposit as security for costs shall be published on the Notice Board once a year on the First day of July.

Cross-Objections

18. Service of cross-objections on the appellant or co-respondents.— Any party or his Advocate presenting any cross-objections under Order XLI, rule 22 of the Code of Civil Procedure shall cause to be served a copy thereof on the Advocate for the appellant or co-respondents if any, if such appellants or co-respondents are represented by an Advocate. An appellant or co-respondent affected by such cross-objections who is not represented by an Advocate shall be served with the notice of the cross-objections together with a copy of the objections in the manner prescribed for service of notices. Within 14 days of the cross-objections being admitted to the file, the party filing the same shall pay the prescribed amount of process fee and supply the requisite number of copies of the objections for service and pay the printing charges if so prescribed by the rules. The procedure prescribed for appeals shall apply mutatis mutandis to cross-objections.

Notification of findings on issues

19. Notification of Findings on issues. — When issues in any appeal have been sent down to the lower Court, the receipt of the findings from the lower Court shall be notified on the Board and a copy thereof shall be sent to the Secretary to the Advocates Association of Western India. The parties shall file objections to such findings within ten days from the day of such notification.

20. Notice of restoration to file, when rule nisi made absolute ex parte. — Whenever a rule nisi has been made absolute in the absence of the opposite party, and the effect of such orders is to bring the case on the file again, a notice of the date fixed for hearing shall be given to the opposite party.

Record and Proceedings

21. Writ calling for Record and Proceedings and notification of their receipt. — (i) In appeals other than those referred to in sub-rule (ii) below, and in revision applications from decrees and from orders in cases which have been finally disposed of in the lower Courts, the office shall call for the Record and Proceedings as soon as notice has been ordered to issue.

(ii) In the case of appeals from orders, appeal in execution proceedings, appeal arising from miscellaneous proceedings, revision applications other than those mentioned in sub-rule (i) above, and in applications for leave to appeal to the Supreme Court, Records and Proceedings of the lower Court shall not be called for by the Office, unless the Court of its own accord, or on application of the party, has ordered them to be sent for

(iii) The receipt of the Record and Proceedings in the office shall be notified on the Notice Board as soon as the same are received.

General

22. Supply of copy of interlocutory application of affidavit for use of opposite party. —If after a respondent or an opponent has entered his appearance in any appeal or application, either party files any interlocutory application or affidavit, a copy of the interlocutory application or affidavit, as the case may be, shall be given forthwith to the Advocate appearing for the opposite party. If the opposite party appears in person, a copy shall be filed for his use in the office.

23. Procedure for revision of Registrar's order of dismissal for failure to prosecute. — Notwithstanding anything contained in Rule 7 of Chapter II, an order of the Registrar dismissing a matter for failure to prosecute under any of the provisions of this Chapter shall be revisable only upon a regular stamped application which shall be filed within seven days from the date of the order of the Registrar complained of, provided that the Court may for good cause shown condone the delay in making the application. Such application shall, unless dispensed with by the Court, be supported by an affidavit explaining the circumstances under which the various steps could not be taken within the prescribed time.

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CHAPTER VIII
SEARCH AND COPIES

1. Contents of search application. — An application for search shall bear the court-fee stamp of the prescribed value and shall state precisely the number of the proceeding the record of which the search is sought; and if the application is for the search of a register prescribed by these rules, the description of and the year of the register.

2. Search in presence of officer and hours of search. — The search shall be made in the presence of an Officer of the Court between the hours of 11 a.m. and 4 p.m. on full working days and 11 a.m. and 1.30 p.m. on Saturdays.

3. Application for search by third party to be supported by affidavit. — An application for search presented by a third party unless presented through an Advocate of this Court, shall be accompanied by an affidavit stating the grounds on which the search is required. The application may be rejected if the grounds thereof are considered insufficient.

4. Assistant Registrar to deal with search applications, — All applications for search shall be dealt with by the Assistant Registrar,

5. Applications for supply of documents for copies, — (i) On a application bearing court-fee stamps of 20 paise in that behalf the original papers in the record of any civil or criminal proceedings may be supplied to the Government Pleader or the parties or their agents for the purposes of taking copies, provided that the papers are kept under the control and supervision of an Officer of the Court.

(ii) Documents shall be made available for taking copies during the hours prescribed above for taking search.

6. Application for supply of uncertified copy of judgment, — (a) Any Assistant Registrar, the Deputy Registrar, the Additional Registrar or the Registrar may pass orders for supplying an uncertified copy of any judgment of the High Court to an Advocate upon his presenting an application in that behalf bearing court-fee stamps of the value of 20 paise and stating in the application that the copy is required by him for private reference and study.

(b) The copy thus supplied shall be charged at the rate prescribed for ordinary certified copies minus the charges for comparing and certifying copies prepared by the parties.

(c) The copy supplied under this rule shall bear the following endorsement:—

“Uncertified copy supplied to..... Advocate, under Rule 6, Chapter VIII of the Bombay High Court Appellate Side Rules, 1960, on.....19

Superintendent.”

(d) A copy thus supplied may be subsequently certified on payment of the charges prescribed for comparing and certifying copies prepared by parties. When so certified it shall bear usual endorsement made on copies supplied by parties when compared and certified by the office.

(e) A copy supplied under this rule may be supplied after the transcript of the judgment has been approved by the Judge or Judges, without waiting for the signing of the decree by the Deputy Registrar as required under Rule 1(ii) of Chapter XI of the Bombay High Court Appellate Side Rules, 1960.

¹[7. **Fee for search and inspection of document on Computer.**— A fee of Rupees 5 shall be charged per copy for the search and inspection of documents on Computer and Rupees 2 per page for print out copy for the same.]

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1. Notification No. P. 3603/98, dated 7-3-1998, published in M.G. G., Dt. 18-6-1998, Pt. 4-C, pg. 1156.

CHAPTER IX

PREPARATION OF PAPER BOOKS AND TRANSLATIONS

Paper Books.

1. Contents and Arrangement of Paper Books in First Appeal. — (i) Paper books of regular First Appeals shall contain the items arranged serially in the order stated below :—

(1) Print or typed copies as specified in Chapter VII, rule 10 herein.

(2) Roznama.

(3) Pleadings.

(4) Interrogatories and their replies, if any.

(5) Examination of portion for framing issues, if any.

(6) The English notes or memoranda of the substance of what each witness has deposed made by the presiding officer of the Court. Where, however, the evidence is recorded on commission, the entire evidence, if the same is in English, or, the English translation of it, if it is in a language other than English, should be included.

(ii) Subject to the provisions of Rule 12, hereinafter appearing Items Nos.(2), (5) and (6) shall be prepared in the District Court at the cost of appellant. The remaining items shall be prepared at the cost of the appellant in the High Court as prescribed in these rules.

(iii) In addition to the items prescribed in sub-rule (i), the paper books of regular First Appeal, shall contain also such other documents which the parties to the appeal may desire to rely on, or refer to or to read wholly or in part at the hearing of the appeal.

(iv) The documents referred to in sub-rule (iii) shall be arranged serially according to the serial number of the exhibits. Where, however, the documents consists of correspondence, they shall be arranged in chronological order.

(v) The appellant shall supply for inclusion in the paper books the requisite number of copies of translation of documents at items Nos. (3) and (4) in sub-rule (i) and the appellant or the respondent, as the case may be, shall supply the requisite number of copies of the translations of documents referred to in sub-rule (iii) in the manner prescribed in these rules. Where such documents are in English, the appellant or the respondent, as .the case may, shall supply the requisite number of typed copies for inclusion in the paper books:

¹[Provided that such translations would not be necessary if the documents are in Marathi and if the party or the Advocate undertakes that English translations would be supplied whenever an order in that respect is made by the Court in a particular proceeding,]

² [**Explanation.** — In rules 1, 2 and 4 of Chapter IX, sub-rule (i) of Rule 2 of Chapter XVII and rule 16 of Chapter XXVI, "Print or typed copies" also includes ³[Photocopies] provided that they are legible and unmarked.]

2. Content and Arrangement of Paper books in Second Appeals. —(i) Paper books of regular Second Appeals shall contain this items arranged serially in the order stated below :—

(1) Print or typed copies as specified in Chapter VII, rule 10 herein.

(2) Pleadings when ordered to be included by the Court

(ii) Both these items shall be prepared at the cost of the appellant in the High Court as prescribed in these rules.

(iii) In addition to the above items in sub-rule (i), the paper book of the regular Second Appeal shall contain also such other documents as the parties to the appeal may desire to rely on, or refer to, or to read wholly or in part at the hearing of the appeal.

(iv) The documents referred to in sub-rule (iii) shall be arranged serially according to the serial number of exhibit. Where, however, the documents consists of correspondence, they shall be arranged in chronological order.

(v) The appellant shall supply for inclusion in the paper books the requisite number of copies of translations of documents at item No. (2) in sub-rule (i) and the appellant or the respondent, as the case may be, shall supply the requisite number of translations of documents referred to in sub-rule (iii). In case of English documents, the appellant or respondent, as the case may be, shall supply the requisite number of copies for being included in the paper books.

⁴[Provided that such translations would not be necessary if the documents are in Marathi and if the party or the Advocate undertakes that English translations would be supplied whenever an order in that respect is made by the Court in a particular proceeding.] –

3. Court may dispense with inclusion of certain documents in paper books of First and Second Appeals. — The Court may dispense with item No. (4) of rule 1(i) in regular First Appeals and item No. (2) of rule 2(i) in regular Second Appeals.

1. Added by Notification No. P. 3603/1986, Dt. 6-8-1986.

2. Added by Notification No. P. 3604/1985, Dt. 29-1-1986.

3. Substituted vide Notification No. P. 3602/2010, Dt. 18-06-2010.

4. Added by Notification No. P. 3603/1986, Dt. 6-8-1986.

4. Paper books in Proceedings other than regular First and Second Appeals.—(i) Except as otherwise provided in these rules, the paper book of every proceeding other than regular First and Second Appeals shall ordinarily contain papers arranged in the following order:—

- (1) Judgment or order of the trial Court;
- (2) Judgments or orders of the lower appellate Court;
- (3) Grounds of appeal together with the cross-objections, if any, in the lower appellate Court;
- (4) Documents which the parties to the proceeding may desire to rely on, or refer to, or to read wholly or in part at the hearing of the proceeding.

(ii) The rules regarding the arrangement of the paper book, supply of the copies of the translations, and of English documents, applicable to the regular First and Second Appeals, shall apply mutatis mutandis to such proceedings.

5. Translations and copies of English documents required to be furnished by parties. — (i) The appellant or the applicant, as the case may be, shall cause to be translated (or copied for the paper book if the documents be in English) not only the documents on which he relies in support of his case, but also the documents on which the Court below, relied in holding against him on those issues on which the findings are challenged by him. The respondent or the opponent will cause to be translated or copied for the paper book such other documents on which he relies.

(ii) No party shall, without leave of the Court read, or refer to any document at the hearing, a translation or copy of which he ought to have provided, and which he has failed to provide, for the paper book.

¹[Provided that such translations would not be necessary if the documents are in Marathi and if the party or the Advocate undertakes that English translations would be supplied whenever an order in that respect is made by the Court in a particular proceeding.]

6. Filing of notes for official translation or lists of documents proposed to be privately translated or copied for paper books and supply of such notes or lists to opposite parties. —

(i) Within 2 months of the notification of the receipt of the record in regular first appeals, 15 days in short notice and expedited matters, and one month in other cases, the appellant or the applicant (or his advocate) shall file :—

- (a) A Note for official translation of documents to be included in the paper book, and/or;
- (b) A List of documents which he intends to get privately translated for inclusion in the paper book; and

¹ Added by Notification No. P. 3603/1986, Dt. 6-8-1986.

(c) A List of documents in English, copies of which he intends to include in the paper book.

(ii) (a) Copies of the Note and/or the Lists shall be furnished forthwith by the appellant or the applicant (or his advocate) to each of the respondents or the opponents (or his advocate), if the latter has already put in his appearance and (b) in case the latter has not put in his appearance, a sufficient number of copies thereof shall be filed in the Office for the use of the respondents or opponents who have not till then Filed their appearances.

(iii) Where copies have been furnished to him as provided in clause (a) of sub-rule (ii) above the respondent or the opponent (or his advocate) shall file a similar Note and/or Lists in Short Notice and Expedited Matters within two weeks and in other cases within one month of the receipt of the copies of the Note and/or the Lists, and shall furnish forthwith copies thereof to the appellants or the applicants (or their advocates).

(iv) In case contemplated in Clause (b) of sub-rule (ii) above the respondent or the opponent (of his advocate) concerned shall obtain from the Office copies Filed in the office by the appellant or the applicant (or his advocate) and shall file similar note and or Lists in Short Notice and Expedited Matters within two weeks and in other cases within one month from the date of the service of the Notice of the appeal or the Rule upon him, and shall furnish forthwith copies thereof to the appellants or applicants (or their advocates).

(v) In case where the appellant or the applicant (or his advocate) has not filed any Note and/or Lists as contemplated in sub-rule (i) hereof the respondents or the opponents (or their advocates) shall File Notes and/or Lists as specified in sub-rule (i) above within three months in regular first appeals, within one month in short notice and expedited matters and within two months in other matters, the period of time being computed from the date of the notification of the receipt of the record or the date of the service of the Notice of the appeal or the Rule on each one of them. whichever is later, and shall also forthwith furnish copies thereof to the appellants or the applicants (or their advocates).

(vi) The Registrar may excuse delay of 15 days in the case of Short Notice and expedited Matters and of one month in other cases.

(vii) Upon the expiry of the period specified in sub-rule (vi), hereof no notes nor Lists as specified in the foregoing sub-rules of this Rule shall be accepted by the Office unless the same are accompanied by a stamped application for excuse of delay supported by an affidavit stating the reasons why the same could not be Filed within the time allowed. When such application is made the Registrar may either grant it subject to such terms and conditions as he may deem necessary or may order that the same be placed before Court for orders.

(viii) On the expiry of the period mentioned in sub-rule (vi) above all regular First Appeals shall be placed before the Registrar for orders, who may upon a stamped application

made to him excuse the delay or pass such orders as he deems proper or may order that the matter may be placed before Court for orders.

7. Parties to state clearly exhibit numbers of documents to be translated officially or portion thereof; and Deposit of estimated translation charges. — (i) "Notes for official translation shall clearly state the number and portions of documents the translations of which are required.

The portion of the documents or accounts required to be translated shall be initialed.

(ii) Where documents included in lists for private translation are not intended to be translated in whole, the parts intended to be translated shall be clearly indicated in the lists.

(iii) Notes for official translation filed by parties in person or Advocates who do not personally undertake to pay translation charges shall be referred to the Chief Translator for estimating translation charges including the charges for the requisite number of typed copies of the translations. Such party or Advocate shall) within 14 days from the date of the receipt of the intimation regarding the estimated charges from the Chief Translator, deposit the necessary estimated charges :

Provided that no such deposit shall be required to be made if any Advocate in his note for translation personally undertakes to pay the translation charges.

(iv) The work of translation shall not be commenced unless deposit is made or an undertaking is given.

8. Rules of translation charges; Official translations by Translators' Department or Special Translators; Payment of Translation charges. — (i) All Official translations, except in the case of criminal petitions, when the accused is in jail and is not appearing by Advocate, shall be charged for at the rate of 75 paise per folio of 100 words. All official translations will be made, if possible, by the Translators Office and if that is not possible by retired Translators or by such Advocates as may be authorised by the Chief justice. In case there is congestion of work in the Translators Office and likelihood of delay in furnishing of translations, the Registrar may, instead of assigning the translation work to that office, assign in to the Special Translator (i.e. retired Translators or Advocates specially authorised by the Chief Justice) appointed by him on payment of the prescribed charges. The Registrar in such cases may further direct the work of translations shall be completed and the translations with necessary typed copies supplied within a stipulated time or date. The Translators' Office or the Special Translators, as the case may be, shall supply four typed copies of the translations for the rate of 75 paise per folio of 100 words provided for translations hereinabove. The typing shall be done neatly and legibly with double space left between consecutive lines; there shall be a two inch margin and every tenth line shall be numbered in the margin. The translations shall on no account be delayed by the Translation Department or by the Special Translators.

(ii) Payment for translations shall be made to the Translation Department where translations are made in that Department, or payment made in cash in the Nazir's office when translations are done by the special translators appointed by the Registrar within one week after the Advocates or parties receive the intimation from the Translation Department or the Registrar's Office to pay the translation fees.

In default of such payment, the Chief Translator or the Civil Department, as the case may be, shall report the matter to the Registrar for orders, and the Registrar may extend the time for payment for a period not exceeding fourteen days.

(iii) The fees for translation paid by a party or his Advocate shall be credited to Government except where the fees are payable to special translators.

(iv) When any document is officially translated, any order of the Court endorsed thereon shall be typed or got typed by the Translation Department, or the Special Translators, as the case may be, on the translations, the party concerned being charged for the typing work at the rate of 25 paise per folio of 100 words for the four copies required to be supplied under sub-rule (i) hereof.

8-A. Compromise filed in vernacular Language to be translated officially. — Where in any matter which is compromised between the parties, the terms of the compromise are filed in vernacular language and if such terms are required to be included in the decree or order, they shall be got officially translated by the office and the charges thereof shall be recovered proportionately from the Advocates concerned at the rates mentioned in the preceding Rule except where agreed translation is fixed by parties along with the non-English draft of consent terms.

9. Time for filing private translations; Supply of copies for use of Court and to opposite parties. — Except as otherwise provided in these rules, private translations in First Appeals shall be filed by the parties within two months of the date on which their respective lists are filed as provided in rule 6(i) above. In Short Notice and Expedited Matters, the translations shall be filed within 15 days, and in other cases within one month of the aforesaid date.

Such private translation shall be signed by the Advocate making them in token of their accuracy.

Private translations shall not be accepted for inclusion in the paper books after the stipulated period without the order of the Registrar who may extend the time for Filing such copies or translations or excuse delay for a period of two months, fourteen days and one month respectively in regular First Appeals, Short Notice and Expedited Matters, and other cases failing which translations shall not be accepted without the leave of the Court.

Two typewritten or printed copies of such translations shall be supplied to the Registrar's Office. One typewritten copy shall also be supplied to each party appearing on the opposite side

or his Advocate. Where one Advocate appears for more parties than one, he will be entitled to receive only one copy of the translations.

If owing to want of translations it becomes necessary for either party to obtain an adjournment after the hearing has begun, such adjournment shall, unless otherwise specially ordered, be subject to payment of cost of the day which will be Rs.60.

The cost of such translations and their copies together with the costs necessitated by an adjournment, under that rule, if any, shall be shown in the bill of costs. The information as regards the number of folios of such translations shall be furnished by the Advocates concerned at the time of filing the translations, and the rate of such translations shall be the same as that fixed for official translations.

The costs of the translations and their copies shall be included in the bill of costs only if the Advocates concerned have filed the necessary information as regards folios at the time of filing the translations and their copies as required above or within such further time as the Registrar may grant on a written application made to him in that behalf. If no such application is made before the hearing of the appeal, the costs of such translations shall not be shown in the bill of costs, unless otherwise directed by the Court, at the hearing of the appeal.

10, Filing of copies of English documents and supply of the same to opposite parties.— The last preceding rule shall extend and apply to copies of English documents included, or intended to be included, in paper books, and the rate shall be 25 paise per folio of 100 words for four copies.

11. Copies of map or plan to be supplied for translation. — Any party applying for official translation of the entries on a map or plan shall furnish to the Office at least four copies of tracings made to scale of such map or plan omitting only the entries to be translated. Such copies will on application be prepared and furnished by the Office and may be obtained on payment of Rs.2 per copy.

Preparation in the High Court of items Nos. (2), (5) and (6) of sub-rule (i) of Rule 1.

12. Procedure etc. for preparation of Paper Books in the High Court. — Where items Nos. (2), (5) and (6) of sub-rule (i) of Rule 1 are or are required to be, prepared in the High Court instead of in the District Court, the procedure and the rates hereinafter mentioned shall be applicable to such work:

(i) The work shall be done at the expense of the appellant.

(ii) Four typed copies of each one of the items mentioned above shall be prepared.

(iii) The charges for translation shall be the same as provided in sub-rule (i) of Rule 8.

(iv) The charges for typing English Documents shall be 25 paise per folio of 100 words for four copies inclusive of costs of paper.

(v) As soon as the Record and the Proceedings are received in the office, the office shall estimate the costs of the work on the basis of the above rates and issue a notice in writing calling upon the appellant or his Advocate to deposit the estimated costs in the office of the Nazir of this Court within one month from the date of the service of the notice and also calling upon the appellant or his Advocate to give an undertaking to pay the excess amount if the actual costs exceed the estimated amount. The work of typing or translation shall not be undertaken unless the amount estimated is deposited and the undertaking as stated above is given.

(vi) The Registrar or the Deputy Registrar may, for good reasons, extend the period of one month fixed under sub-rule (v) above by a period not exceeding 15 days on a note and by a further period of 15 days on a properly stamped application. If the estimated amount is not deposited and the undertaking as stated in sub-rule (v) above is not given within the time fixed under sub-rule (v) above, or within the time extended under this sub-rule, the matter shall be placed before the Court for orders for non-prosecution.

(vii) If the amount is deposited and the undertaking is given within time, the office shall execute the work as expeditiously as possible and after the completion of the work calculate the actual amount payable by the appellant or his Advocate for the work done and shall refund the excess amount to the appellant or his Advocate, if there is any excess. If, however, there is a deficit the office shall by a written notice call upon the appellant or his Advocate to make good the deficit within 15 days from the receipt of the notice and on his failure to make good the deficit within time, the matter shall be placed before Court for orders for non-prosecution.

(viii) The typing shall be done neatly and legibly with double space left between consecutive lines; there shall be a two inch margin and every tenth line shall be numbered in the margin.

(ix) The paper book should have at the beginning an index showing the serial number of the item, the description of the item, the Exhibit number of the item, if any, and the number of the page where the item begins.

(x) The Superintendent-in-charge of the preparation of the paper books shall endorse on each of the four copies of the paper books a certificate showing therein the costs of the preparation of the paper book. showing the costs of typing and the costs of translations separately. He shall also maintain a diary in which he shall copy down such certificates from day to day showing the number of the proceedings and the name of the party who paid the costs of the preparation of the paper book.

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CHAPTER X

WARNED LIST, WEEKLY AND DAILY BOARDS

1. Chief Justice to nominate Judges in charge of classes proceedings. — The Chief Justice will nominate from time to time seven Judges (hereinafter referred to as the Judges in charge) to be in charge of:-

- (1) First Appeals (Divisions Bench) and Letters Patent Appeals,
- (2) First Appeals (Single Judge), Appeals from Orders, Revision Applications and other Single Judge's Civil Matters
- (3) Writ Petitions (Division Bench)
- (4) Writ Petition (Single Judge)
- (5) Second Appeals.
- (6) Criminal Appeals and Applications (Division Bench).
- (7) Criminal Appeals, Revision Applications and other Single Judge's Criminal matters.

2. Warned Lists and Arrears Lists. — (i) All matters pending in registers, when they are ready, shall be placed on the Warned Lists and unready matters, when they become in arrears, on the Arrears List.

Explanation. — (a) Matters become ready when according to Appellate Side Rules, they are ready for being placed on Board for final disposal;

(b) A matter shall be deemed to become in arrear -

- (a) in the case of First Appeals, one year after their registration;
- (b) in the case of Second Appeals nine months after their registration.
- (c) in the case of Letters Patent Appeals, Appeals from Orders and Civil Revision Applications, six months after their registration;
- (d) in the case of Civil Applications and other miscellaneous matters three months after their registration;
- (e) in the case of short notice matters, three months after their registration;

(f) in the case of expedited matters, three months after the date of order of expedition; and

(g) in the case of Writ Petitions, thirty days after their registration.

(ii) A separate Warned List and an Arrears List shall be prepared for each class of cases, and for this purpose, expedited and short notice matters shall form a distinct class.

Explanation. — For the purposes of this rule, short notice matters shall include:—

(a) Appeals under Special Acts.

(b) Appeals against preliminary decrees.

(c) Appeals under section 47 and section 104, Civil Procedure Code.

(d) Appeals under Order XLIII, Rule I, Civil Procedure Code.

(e) Applications for the exercise of the civil revisional jurisdiction of the Court.

(f) Cases specially expedited by the Court.

(g) Disciplinary matters.

(h) Transfer applications under section 24 of the Civil Procedure Code.

(i) Applications for leave to appeal to the Supreme Court.

(j) Appeals from Orders made under section 144, Civil Procedure Code.

(k) Deleted.

(l) Concept proceedings.

(iii) Matters shall be placed on the Warned List and Arrears List strictly according to the sequence of the serial numbers.

3. Preparation of Warned and arrears Lists at close of summer vacation and their maintenance during the year. – At the close of the Summer Vacation every year, a complete Warned List and Arrears List for each class of cases shall be prepared and posted on the Notice Board. Thereafter at the end of every month, there shall be added to each Warned List and

Arrears List matters which have become ready or in arrear. If during the month any matter already entered in the Arrears List becomes ready, the matters shall be struck off from the Arrears List and added to the Warned List under the signature of the Board Superintendent. Matters so added shall take their place in Warned List according to the sequence of their serial numbers. Similarly any matter from the Warned List, which becomes unready, shall be struck off from the said List and entered in the Arrears List.

4. Preparation of Weekly and Daily Boards. – (1) Weekly Board of each class of case from the Warned List shall be prepared and placed on the Notice Board every Friday, which shall contain the list of cases which are likely to be placed on the Daily Board, before the appropriate Courts during the week commencing after ten days. This Weekly Board shall be prepared strictly in accordance with the serial order in the Warned List.

(2) On the last working day of the Court in each week, Daily Boards containing the cases assigned to each Judge or a Bench of Judges according to the orders of the Chief Justice shall be prepared and put on the Notice Board for the next working day of the Court in the following week. Such Daily Boards shall, subject to such orders as may be passed by the Chief Justice or the Court, and save as otherwise provided in these Rules, be prepared strictly according to the serial order of the cases on the Weekly Board. After the conclusion of the sitting of the Court on the first working day of the week, the Daily Board for the next working day shall be prepared and shall contain matters left over from the Daily Board of that day with the addition of as many matters from the Weekly Board as may be expected to be heard on the following day:

Provided that if the Court concerned so desires or the Chief Justice so directs Weekly Boards may also be prepared for the day-to-day hearing of the cases before the Courts. Such Weekly Boards of hearing shall be prepared and noticed on the last working day in the preceding working week of the Court. At the end of each working day matters disposed of by the Court or Courts during the course of the day shall be struck off from such boards:

Provided further that a week for the purposes of the Weekly Boards mentioned in the preceding proviso may commence on any day of the week as may be desired by the Court or as may be directed by the Chief Justice:

Provided also that the first 25 (or so many as may be directed by the Court concerned) of the matters put or left over on the Weekly Board so prepared at the commencement of each working day shall ordinarily (but not necessarily) be regarded as the quota of cases fixed for hearing on the day.

(3) Motions for urgent circulation shall be made either immediately after the Court assembles, or reassembles, as the case may be, for hearing in the forenoon or the afternoon, or just before the Court rises for the lunch interval. No such motion shall be made or permitted at any other time after 3 p.m., except under special circumstances and unless the party of the Advocate concerned satisfies the Court that he could not move the Court as required under the earlier part of this sub-rule or earlier than 3 p.m., as the case may be.

(4) The Sheristedar-in-charge of the respective Courts shall seek and obtain orders of the Court at 3.30 p.m. on full working days and at 1 p.m. on Saturdays and half working days for discharging the Boards for the day and shall immediately convey orders of the Court in this regard to the Board Department.

(5) Cases which are on the Provisional Board in any week shall, if not disposed of, be included in the Weekly Board, for the following week.

5. Priority of certain proceedings on Daily Boards. - In preparing the Daily Boards for short notice and expedited matters, priority shall be given to motions or applications for revision of the orders of the Registrar or Taxing Officer, Election Appeals, Appeals in Matrimonial matters and appeals under the Workmen's Compensation Act (VIII of 1923).

6. Matters referred to Division Bench to be placed on Board of Division Bench hearing criminal and First Appeals. - Matters referred to Division Bench shall be placed, with the permission of the Judges, before the Division Bench hearing either criminal matters or the First Appeals in the order of their registration.

7. Adjournment in respect of matter on Weekly or Daily Boards. - (i) Every application for an adjournment of hearing of any matter included in the Weekly or Daily Board shall be made to the Court.

(ii) Motions, for adjournment of matters which are on the Warned List, but which have not been notified on the Weekly or Daily Board shall be made to such Judge as the Chief Justice may by special or general order, appoint to be in charge of the class of matters in respect of which adjournment is sought.

8. Chief Justice may make any changes in Weekly and Daily Boards. - Nothing in rules 5, 6 and 7 shall apply to cases or classes of cases which are specially ordered by the Chief Justice or the Court to be placed on the Daily Board.

9. When and for what period Deputy Registrar may order not to place on Daily Board matters from Weekly Boards. - The Deputy Registrar may, in any case where all the parties consent, direct that any matter on the Weekly Board may not be placed on the Daily Board for a period not exceeding one week in expedited or short notice matters and two weeks in other cases.

10. No adjournment of matter on Daily Board without Court's order. - After the preparation of the Board for the day, adjournments by consent shall not be sanctioned without the order of the Court.

11. Procedure for making motion other than for postponement of case on Daily Board. - No motion other than for the postponement of a case on the Daily Board shall, except under special circumstances and by leave of the Court, be made, unless notice thereof shall have given to the Registrar and the opposite party before 4-30 p.m. of the day previous to making the motion, and such notice shall state the Court in which and the day on which the motion is intended to be made.

12. Position of adjourned matters on Daily and Weekly Boards. (i) Any matter adjourned by the Court to a date in the same week shall be retained in its place on the Daily-Board with a note stating the date before which it will not be heard as ordered by the Court.

(ii) In matters which have been adjourned from the Weekly Board for a period exceeding one week, a note shall be made on the Weekly Board indicating the date before which it cannot be heard as ordered by the Court.

13. Cases on Warned List to be marked with a date before which they are not to be placed on Daily Board. - Cases in the Warned List shall be marked with a date before which they are not to be put up on Daily Board, except by the direction of the Judge-in-charge.

14. Notification of matters granted ex parte by Registrar. - The office shall notify every Monday the list of matters granted ex parte by the Registrar or the Deputy Registrar, as the case may be.

15. Rule under Advocates Act to apply for non-attendance of Advocates. - Rules framed by the High Court under section 34(1) of the Advocates Act shall be followed in the matter of the non-attendance of the Advocates.

16. Entrustment to another advocate. - 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.

17. Withdrawal of appearance. - 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 it is 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.

18. Intimation of case being brought on Board to be given to a party not represented by Advocates. - Intimation that a case has been brought on to the Weekly Board shall be given by registered post to any party thereto, not represented by an Advocate, who has supplied to the Office his address and the necessary stamps for postage and registration.

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CHAPTER XI

JUDGMENT AND DECREE

¹**[1. When judgment to be taken as ready.** — (i) Where Judgment has been reserved in a case heard by a Division or 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 case after the transcript or the transcripts of the Judgment has or have been initiated by all the Judges who had heard the case.

(ii) A Judgment delivered by this Court, when initialed by the Judge pronouncing it, either on the transcript of the Judgment or on the approval sheet attached to it shall be the final judgment of which copies could be supplied to the parties or their Advocates unless the Judge delivering it desires that he wants 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 initialed by the Judge.]

2. Procedure when Advocate wishes to keep judgment before the Court for speaking to minutes. — Whenever an Advocate wants a judgment to be kept before the Court for speaking to the minutes, he shall file a note in the Office showing the points on which he wants to speak to the minutes and he shall also serve a copy thereof on the Advocate for the other side.

3. Procedure for preparation of decrees. — (i) The Office shall prepare the draft of the decretal order on the Farad and the bill of costs. The draft of the decretal order and the bill of costs together with the copy of the judgment shall be sent to the Advocates' Room for the approval of the Advocates concerned and notice in that behalf shall also be put up in the Advocates' Room.

(ii) If the draft decretal order and the bill of costs prepared by the Office is approved by the Advocates, the Advocates shall attest them in token of their correctness.

(iii) If the Advocates do not approve the draft decretal order or the bill of costs or require any clarification or correction in the judgment of the Court, they shall put in their notes slating specifically the grounds of their objection and the clarification or correction they require, and serve a copy thereof on the other side.

1. Substituted by Notification No. P 3601/1992, Dt. 27-5-1992.

(iv) If the Advocates, fail to attest the draft decretal order of the bill of cost or to suggest any clarification or correction in the judgment within seven days from the date on which the matter was sent to the Advocates' Room and notified as above, the Deputy Registrar shall sign the decree and the Taxing Officer and the Deputy Registrar shall sign the bill of costs.

(v) No amendment to the decree or the bill of costs shall be made after the decree is signed by the Deputy Registrar except upon a regular application in that behalf. The Deputy Registrar may, however, correct any clerical or arithmetical mistakes in decrees or orders which are brought to his notice.

4. Objections to draft decretal order and bill of costs. — Objections to the draft decretal order shall be decided by the Deputy Registrar and objections to the bill of costs by the Taxing Officer, after hearing the Advocates or the parties, if necessary. An Advocate or party dissatisfied with the decision of the Deputy Registrar or the Taxing Officer shall immediately file a note for placing the matter before the Court for revision of the impugned order. When such a note is filed, the decree shall not be signed until the decision of the Court.

5. Date on decree.— The decree shall ordinarily bear the date on which the judgment of the High Court was pronounced, The decree shall also show the date on which it is signed by the Deputy Registrar,

6. Supply of Stamp paper for decree which is required to be engrossed on such paper. — (i) All matters in which the question of liability of the decree for payment of stamp duty is likely to arise shall be referred by the Office to the Taxing Officer. The Taxing Officer shall decide whether the decree is liable for stamp duty and also determine the quantum of stamp duty payable. If in the opinion of the Taxing Officer, there are no sufficient materials on record to determine the stamp duty or if the Collector to whom reference for adjudication has been made under sub-rule (ii) below requires any particulars or evidence for determining the stamp duty, the Taxing Officer may require any party to furnish by affidavit or otherwise such particulars or evidence as he or the Collector, as the case may be, require for determining the stamp duty. Such particulars or evidence shall be furnished by the party, directed to do so, within one month from the date of the receipt of the letter asking for the same.

(ii) When the Taxing Officer decides that the decree is liable to payment of stamp duty and also decides the quantum of stamp duty payable the party liable to pay the stamp duty or his Advocate shall supply the necessary stamp paper for engrossing the decree within one month from the date of the decision of the Taxing Officer. If the decision of the Taxing Officer is disputed, the party disputing it shall, within 14 days from the date of the decision of the Taxing Officer, deposit the prescribed fee for obtain in adjudication from the Collector.

(iii) In matters which are referred for adjudication of the Collector, the necessary stamp paper shall be supplied by the party liable to pay the stamp duty within one month from the date of Intimation given by the Office of the receipt of the adjudication from the Collector.

(iv) Any party interested in the decree may pay the entire stamp duty by supplying in full the necessary stamp paper. If the party so requires, the matter may thereafter be placed before the Court for orders or directions regarding apportionment of the stamp duty and the payment of the proportionate shares to the party who has supplied the said stamp paper. Such orders or directions shall, unless otherwise directed by the Court, be incorporated in the decretal order of the proceeding.

(v) The Registrar may extend the time prescribed in sub-rules (i) and (ii) above or excuse delay for a period not exceeding 14 days in respect of adjudication and one month in respect of supply of stamp paper or necessary information or evidence.

(vi) If the adjudication fee or stamp paper, for the decree being drawn up, or the particulars or evidence, required by the Taxing Officer under sub-rule (i) above, are not supplied within the time prescribed above or within such time as may be allowed by the Registrar, the papers shall be filed without any decree being drawn up.

* * * *

CHAPTER XII
PROCEDURE IN CASES OF DEFAULT

1.Registrar’s power to dismiss for default.— Where no action has been taken by the party or the Advocate within the time prescribed by these rules the office shall forthwith place the matter before the Registrar and, except as otherwise provided for in these rules, the Registrar shall dismiss the matter for default:

Registrar’s powers to condone delay where there is default. — Provided, however, that, if the party or the Advocate takes the necessary action within a period of 14 days next after the expiry of the period prescribed by the rules for the purpose and also makes a regular application with the necessary court-fee stamp for excusing the delay, the Registrar may excuse the delay and direct that the matter be proceeded with further.

2. Procedure for revision of Registrar's order of dismissal for default. — Notwithstanding anything contained in Rule 7 of Chapter II an order of the Registrar dismissing a matter for default under the preceding rule shall be revisable only upon a regular stamped application which shall be filed within seven days from the date of the order of the Registrar complained of, provided that the Court may, for good cause shown, condone the delay in making the application. Such application shall, unless dispensed with by the Court, be supported by an affidavit explaining the circumstances under which the action could not be taken within the prescribed time.

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CHAPTER XIII

CERTIFIED COPIES

1. Contents of application for certified copies.—(i) Every application for a certified copy shall bear the prescribed Court-fee stamp and shall state whether the copy is required for private use or otherwise. It shall be stated in the application whether the copy is required urgently or in the ordinary course. The application may be made by the party himself or by his recognised agent or by his Advocate and may also be sent by post. Where a party applies for a certified copy by post other than registered, post, the date of its receipt by the office of the Court would be the date of the presentation of the application. Whenever such application is made by registered post, the same shall be prepaid for acknowledgment and the date of posting of the letter would be the date of presentation of the application to the Court.

(ii) Application for certified copies for purposes other than private use shall be accompanied by the requisite court-fee stamp prescribed for certified copies under the Court-fees Act.

(iii) Application for certified copies of documents liable to stamp duty under Article 26 of Schedule 1 of the Bombay Stamp Act, 1958, shall be accompanied by a general stamp paper of the requisite denomination.

2. Deposit to be made along with application.— Application for certified copies of any judgment, decree or order shall be accompanied by a nominal deposit of Rs.5, Rs.4 and Re.1, respectively, for ordinary copies and double the said amounts for urgent copies:

"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."

3. Parties to proceedings entitled to copies, Application by third Parties to be accompanied by affidavits. — Copies of documents in any civil or criminal proceeding and copies of judgments of the High Court shall not be given to persons other than parties interested therein without the order of the Assistant Registrar. An application for copies made by a third party shall be accompanied by an Affidavit stating the purpose for and the grounds on which they are required, provided that such affidavit shall be dispensed with whenever an Advocate desires bona ride to obtain a copy of a judgment of this High' Court for the purpose of citing the same as and authority in another Court and makes an application stating that it is required by him for that purpose and provided further that such affidavits shall be dispensed with in the case of applications made. by or on behalf of the Government of the Union or of any State or the Government of any Foreign State.

4. When additional deposits for copies to be made. — After the original papers are received in the Copying Section, the Office shall estimate the copying charges and call upon the applicant to deposit such additional charges as may be necessary to make good the estimated charges, and the work of copying shall commence only after the additional charges and the other requirements prescribed under these rules have been complied with.

5. Ordinary copies to be furnished within ten, and urgent copies within five working days. — An ordinary copy shall be supplied within ten working days from the date when the requirements regarding the deposit of estimated charges, affidavit, etc., are complied with or the original becomes ready for a certified copy being supplied whichever is later. An urgent copy shall be supplied within five working days from the said date of payment of the extra court-fee and charges, unless the Deputy Registrar orders it to be supplied at an earlier date.

Application for copies of Judgments which are required to be sent for printing.

6. Supply of typed copies of judgments required to be sent to the Press for printing.— Notwithstanding that judgments are required to be sent for printing typed copies of all such judgments shall be supplied on applications for urgent copies of such judgments or applications for ordinary copies made before the judgment is sent to the Press.

(ii) When an application for an ordinary copy of a judgment is made after the judgment has been sent to the Press for printing, a certified copy prepared from the print received from the Press shall be supplied as soon as the printed judgment is received from the Press, provided that, if the printed judgments are not received from the Press, within three months from the date of the application, the Office shall supply typed copies of the judgment at ordinary rates.

Certification of private copies

7. Private copies may be certified as true copies. — Copies of the judgments or any documents on the record in any civil or criminal proceeding in this Court may, on orders of the Assistant Registrar, 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 cases, only the comparing fees shall be levied according to the scale of fees prescribed.

Supply of copy of Judgment to the Accused.

8. Notwithstanding anything contained in the preceding rules of this Chapter — (1) Where an order of acquittal has been reversed by the High Court and an accused has been sentenced to imprisonment and in every case where the judgment is appealable, a certified copy of the judgment shall be supplied, on an application made by the accused, free of cost provided however that where a sentence of death is passed or confirmed by the High Court a certified copy of the judgment shall be immediately given to the accused free of cost whether or not he applies for the same.

(2) In every other case where an accused is in jail and if he applies for it, a certified copy of judgment shall be supplied to him free of cost.

¹**[9. Supply of copies of documents etc. free of costs to the High Court or District Court Legal Aid Committee and the Supreme Court Legal Aid Committee.** — Where Certified copies of documents, orders, Judgments, etc. are bona fide required in connection with free legal aid to indigent persons, one copy of each such document, order, judgment, etc, shall be supplied free of cost to the High Court or District Court Legal Aid Committee and the Supreme Court Legal Aid Committee :

Provided that Court which has the custody of such documents, orders, judgments, etc. may in its discretion, grant more than one copy if bona fide required in connection with free legal aid to indigent persons.]

²**[10. Certified copy to Government to be furnished free of cost.** — Where certified copy is applied for by State Government or any Officer of the Government of Maharashtra ³[or Government of Goa] on behalf of State, the Certified Copy shall be furnished free of cost.]

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1. Added by Notification No. P. 1618/1977, Dt. 6-11-1985.

2. Notification No. P. 3605/98, Dt. 13/14-7-1998 published in M.G.G., Dt. 3-12-1998, Pt. 4-C, pg. 1291.

3. Added by Notification No. P. 3605/98, Dt. 30-10-1999, published in M.G.G., IV-C, dated 12.6.2008.

CHAPTER XIV

COSTS, FEES AND RULES FOR COMPUTING ADVOCATES FEES

Costs

1. Advocate's fee to be taxed in bill of costs. — (i) 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 recoverable by such party, if represented by an Advocate, from his adversary, shall be computed in accordance with the rule in Schedule "A" annexed to this Chapter.

(ii) Nothing contained in this rule or rules 2 and 3 shall apply to fees payable to advocates in the Court of Small Causes of Bombay or to Advocates on the Original Side.

2. When fee of two Advocates allowed in bill of costs. — Subject to rule 1 above, where a party has engaged more than one Advocate, in an appeal to the High Court from a decree deciding on the merits —

(a) any suit of which the amount or value of the subject-matter exceeds Rs.10,000: or

(b) any contested proceeding under the Indian Succession Act, XXXIX of 1925, or the Land Acquisition Act, I of 1894, of which the amount or value of the subject-matter exceeds Rs.10,000. a fee of two Advocates shall be allowed in the bill of costs;

Provided that in any appeal from a decree in any suit of which the amount of value of the subject-matter is less than Rs.10,000, the Court may by an order in writing certify that the fee of two Advocates may be taxed.

3. Double set of Advocate's fees not to apply to pauper appeals. — The provision of rule 2 shall not apply to appeals by paupers and to cases other than those specified in the said rule.

4. Advocate's fee when no specific orders as to the amount of cost made by Court. — When the Court awards costs in any matter without specifying the amount or the scale thereof and the amount thereof is not prescribed under any Act or rule, a sum of Rs.60 shall be allowed as the Advocate's fee.

Fees.

5. Process fees to be charged on the Appellate Side of the High Court. — The following fees shall be charged :— The following fees shall be Charged :-

The following fees shall be levied for serving and executing processes issued by the High Court in its Appellate Jurisdiction:-

(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.

²[(b) Such process fees shall be charged and paid within three days from the date of order passed by the Court issuing notice. 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 proceedings is disposed of by the Court.

Provided that failure to pay the process fee within two weeks from the date of order passed by the Court will result in automatic dismissal of the proceedings for non-prosecution.]

Notes. – (1) The fees prescribed above are to be charged for each individual ordered to be served with process. When 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 set of fee is to be levied. Where process is to be issued for service 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.

(2) Where process has to be issued in foreign territory, a sum sufficient to cover the fees in that territory shall be paid.

(2)(a) When process is to be served by Registered post, with acknowledgment due, the amount necessary for the same calculated at the prevailing postal rates shall be paid.

(3) For the service of writ of injunction, the fees to be charged shall be at double the above rates.

(4) In case service by more than one modes, simultaneously is prayed/ordered, process fee at the rate of Rs. 50.00 per mode and per defendant/respondent/non-applicant, shall be levied.]

1. Substituted vide High Court Notification No. P. 3601/2006, dt.18-10-2006
2. Substituted vide Notification No. P. 3601/2010, dt. 19-04-2010.

Certified Copies –

Ordinary

<p>(a) For copying and comparing inclusive of paper costs.</p> <p>(b) For copying map or plan</p> <p>(c) For copying and comparing copies prepared on Photocopying Machine</p> <p>²(d)The Court Fee Stamps 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 application for issue of Certified Copies.</p> <p>Fees Act, shall be affixed on application for issue of Certified Copies.</p>	<p>³A flat rate of Rs. 4.00 per page of manuscript page shall be charged.</p> <p>Maximum Rs.25 to minimum Rs.5 as the Assistant Registrar may determine</p> <p>Rs. 4.00 per page</p>
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1. Substituted by Notification No. P. 4501/1988, Dt. 27-11-1990.

2. Substitute by Notification No. P 3602/2004, Dt. 29-08-2006

3. Substitute by Notification No. P. 3601/2006. Dt. 19-01-2007

Urgent

(e) For copying and comparing inclusive of paper costs	A flat rate of Rs.7.00 shall be charged per page or manuscript page.
(f) For copying and comparing copies prepared on Photocopying Machine	Similar rates as prescribed above.
(g) For comparing private copies produced for certification.	Rs.1.50 per page shall be charged.
¹ (h) The Court Fee Stamps of Rs. 5 or as may be prescribed by the State Government from time to time hereinafter, under the Bombay Court	

Providing that the certified copies of any document shall be supplied free of costs to the Registrar when the same are required by him for the purposes of any prosecution or proceeding which is filed by him under the directions of this Court or under the administrative orders of the Honourable the Chief Justice or the Administrative Judges or for use in any proceeding in which he is or is made a party in his official capacity.

N. B. — All amounts excluding fractions of a rupee, if there be any shall be sent to the parties by Money Order after deducting Money Order Commission there from and the balance of the amount in fractions of a rupee shall be retained in Office after intimation to the parties on Money Order coupon that if the same are not collected either personally or through an Advocate the same shall be credited to Government after a period of one year]

1. Substitute by Notification No. P 3602/2004, Dt. 29-08-2006

III

Search –

(a) Of the records of a case.	Re.1 per day
(b) Of registers prescribed under the rules	Re.1 per each register

IV

(a) For administering every oath or solemn affirmation.	Re.1
(b) For interpreting affidavits service of notice to parties	Re.1
(c) For interpreting affidavits in other cases and for interpreting petitions, etc.	50p. per folio of 100 words

6. Exemption to members of Scheduled Tribes from payment of process fees. — The members of the Scheduled Tribes specified in Schedule "B" appended to this Chapter are exempted from payment of process fees. This Rule shall be effective retrospectively from and inclusive of the 7th day of September 1964 and shall remain in force until further orders.

SCHEDULE "A"

Rules for computing the Advocate's fee.

I. Advocate's fee in cases decided on merits. — (a) In suits which decide on the merits the real dispute between the parties;

(b) In appeals from decrees (including preliminary decrees) other than appeals from execution, proceedings which decide on the merits the real dispute between the parties;

(c) In applications, proceedings or appeals which decide on the merits the real dispute between the parties under the —

(i) Indian Succession Act, XXXIX of 1925, excepting applications or appeals falling under sub-clauses (ii) and (iii) of clause (e) of Rule VI.

(ii) Land Acquisition Act, I of 1894;

the amount of the Advocate's fee shall be computed on the amount or value of the subject matter in dispute in the suit, appeal, application or proceeding at the rates specified below :—

If the amount or value of the subject-matter in dispute does not exceed Rs.2,000 at 7 ¹/₂ percent.

If such amount or value exceeds Rs.2,000 but does not exceed Rs.5,000; on Rs.2,000 as above and on the remainder at 5 per cent. If such amount or value exceeds Rs.5,000, but does not exceed Rs.10,000, on Rs.5,000 as above and on the remainder at 2 per cent.

If such amount or value exceeds Rs.10,000, but does not exceed Rs.20,000, on Rs.10,000 as above and on the remainder at 1 per cent.

If such amount or value exceeds Rs.20,000, on Rs.20,000 as above and on the remainder at ¹/₂ per cent.

Exception. — The amount of Advocate's fee in a suit, appeal, application or proceeding between landlord and tenant shall be calculated on the amount or value of the claim for the purpose of Court-fees and not on the amount or value of the claim for the purposes of jurisdiction;

Provided that the amount may, at the discretion of the Court, be calculated on the amount or value of the claim for the purposes of jurisdiction when the Court is of the opinion, having regard to the labour involved in the preparation of the case, or to the complexity of the issue arising therein, that the higher rate, of valuation is appropriate.

II. (a) Advocate's fee in Appeals from Orders. — In appeals from Orders,

(b) Advocated fee in applications and other proceedings. — In civil applications or proceedings other than applications and proceedings necessary for the progress of a suit or appeal and other than applications arising in or out of applications, proceedings or appeals falling under Rules V and VI below.

(c) Advocate's fee in all other cases. — In all other cases not otherwise provided for, the amount of the Advocate's fee to be allowed shall be 1/4 of that payable according to the rates specified in Rule I

III. Advocate's fee shall be taken to be the remuneration for Advocate's services. — The fee prescribed in Rules J and II shall be taken to be the remuneration for the Advocate's services until the final decree or order in the suit, appeal, application, reference or proceeding is passed.

IV. Advocate's fee in execution proceedings or in appeals in execution proceedings. — In execution proceeding or in. appeals in execution proceedings, the Advocate's fee to be allowed shall be $\frac{1}{4}$ th of the fee calculated at the rates specified in Rule I on the amount or value of the relief or money claimed in the application to execute the decree. Such fee shall be chargeable on the first application and on every subsequent contested application.

V. Advocate's fee in applications under Article 226 or Article 227 of the Constitution. — The Advocate's fee shall be Rs.100 in an application made under Article 226 of the Constitution and Rs.75 in an application made under Article 227 of the Constitution;

Provided that the Court hearing such applications may, having regard to the labour involved in the preparation of the case or the complexity of the issues arising therein or for any other sufficient reason, allow such higher fees as it deems proper.

VI. Advocate's fee in certain cases, — (a) In any reference made to the High Court under section 113 of the Code of Civil Procedure, V of 1908.

(b) In any application to the High Court under section 23 of the Provincial Small Cause Courts Act, IX of 1887.

(c) In any application to the High Court under section 25 of the Provincial Small Cause Courts Act, IX of 1887.

(d) In any application for the exercise of the High Court's revisional jurisdiction in civil matters

(e) In all applications or appeals under:—

(1) the Guardians and Wards Act, VIII of 1890,

(2) Part X of the Indian Succession Act, XXXIX of 1925,

(3) Part VII of the Indian Succession Act, XXXIX, of 1925,

(4) the Indian Trust Act, II of 1882,

(5) the Provincial Insolvency Act, V of 1920.

(6) any other special or local Act,

a sum of Rs.60 shall be allowed as the Advocate's fee.

VII. Minimum Advocate's fee. — In no case, whether specially provided for in this Schedule or otherwise shall the Advocate's fee payable in any civil suit, appeal (including an appeal from execution proceedings), application or proceeding other than execution proceedings, be less than,-

(a) Rs.60 in the High Court,

(b) Rs.20 in a District Court,

(c) Rs.20 in the Court of a Civil Judge, subject to the provisions of clause (d) and the proviso below,

(d) Rs.10 in the Court of a Civil Judge in suits of the nature cognizable by a Court of Small Causes or in the Court of a Mamlatdar under the Mamlatdars Court Act, II of 1906:

Provided that suits by a superior holder for the recovery of his dues in the Court of a Civil Judge shall be governed by clause (d) and not by clause (c), unless in the opinion of the Court the suit involves questions of a complicated nature affecting title to land.

¹[**VIII.** A surcharge of 100 percent shall be allowed on the fixed or ad valorem fees under the existing rules, in all cases where addition of 100 per cent surcharge would increase the Advocates Fees to any amount upto Rs.300 and the surcharge of 25 per cent shall continue to be allowed on the remainder.

Illustration I. — If the Advocates' fees as per the rates existing prior to 22nd February 1977 would be upto Rs.150 there will be an increase by 100 per cent and therefore the fees will be calculated double the said rate.

Illustration II. — If the Advocate's fees as per rates prior to 22nd February 1977 exceed Rs.150 the fees upto Rs.150 would be increased by 100 per cent and those remaining in excess of Rs.150 would be increased by 25 per cent. For example, if the fees are Rs.200 there will be an increase of 100 per cent for Rs.150 and for the balance of Rs.50 there will be an increase of 25 per cent. Thus the total fees would be increased to Rs.362.50 P.]

1. Substituted by Notification No. P. 0115/68, Dt. 23-12-1982.

SCHEDULE "B"

(Members of the Scheduled Tribes exempted from payment of the process fees)

Maharashtra

1. Andh.
2. Baiga.
3. Barda
4. Ravacha, Bamcha
5. Bhaina.
6. Bharia Bhumia, Bhulahar, Bhunma. Pando.
7. Bhattra.
8. Bhail, Bhil Garasia, Dholi Bhil, Dungri Bhil. Dungri Garasia, Mewas Bhil, Rawal Bhil.
Tadvi Bhi!, Bhagalia, Bhilala, Pawra, Vasava, Vasave
9. Bhunjia.
10. Binjhar.
11. Birhul, Birhor.
12. Ghodhara (excluding Akola, Amravati, Bhandara, Buldhana, Chandrapur, Nagpur,
Wardha, Yavatmal, Aurangabad, Beed, Nanded. Osmanabad and Parbhani District).
13. Dhanka, Tadvi, Tetaria, Valvi
14. Dhanwar.
15. Dhodia.
16. Dobla, Talavia, Halpati
17. Gamit, Gamta, Gavit, Mavchi, Padvi,

18. Gond Rajgond, Arkh, Arrakh, Agaria, Asur, Badi, Maria, Bada Maria, Bhatola, Bhimma, Bhuta, Koilabhuta, Bhar, Disonhorn Maria, Chota Maria, Dandami Maria, Dhuru Dhurwa, Dhoba, Dhulia Dorla, Gaiki, Gatta, Gatti, Gaita, Gond Gowari, Hill Maria, Kandra, Kalanga, Khatola, Koitar, Koya, Khirwar, Khirwara, Kucha Maria, Kuchaki Maria, Madia, Maria, Mana, Mannewar, Moghya, Mogia, Monghya, Mudia, Muria, Nagarchi, Naikpod, Nagwanshi, Ojha, Raj, Sonjhari Jhareka, Thatia, Thotya, Wade Maria, Vade Maria.
19. Halba, Haibi.
20. Kamar.
21. Kathodi, Katkari Dhor Kathodi, Dhor Kathkari, Son Kathodi, Son Katkari.
22. Kawar, Kanwar, Kaur Cherwa Rathia, Tanwar Chattri.
23. Khairwar.
24. Kharia.
25. Kokna, Kokni Kukna.
26. Kol.
27. Kolam, Mannervarlu.
28. Koli, Dhor, Tokre Koli, Kolcha, Kolgha.
29. Koli Mahadev, Dongar Koli.
30. Koli Malhar.
31. Kondh, Khond, Kandh.
32. Korku, Bopchi, Mouasi, Nihal, Nahul, Dondhi Bondeya.
33. Koya, Bhine Koya, Rajkoya.
34. Nagesia, Nagasia.

35. Naikda, Nayaka, Cholivala, Nayaka, Kapadia Nayaka, Mota Nayaka, Nana Nayaka.
36. Oraon, Dhangad.
37. Pardhan, Pathari, Saroti.
38. Pardhi, Advichinchar, Phans Pardhi, Phanse Pardhi, Langoli Pardhi, Bahelia Bahellia, Chita Pardhi, Shikari, Takankar, Takia.
39. Parja.
40. Patelia.
41. Pomla.
42. Rathawa.
43. Sawar, Sawara.
44. Thakur, Thakar, Ka Thakur Ka Thakar, Ma Thakur, Ma Thakar.
45. Thoti (in Aurangabad, Beed, Nanded, Osmanabad and Parbhani district and Rajura tahsil and Chandrapur district).
46. Varli.
47. Vitolia, Kotwalia, Barodia.

* * * * *

CHAPTER XV

DESTRUCTION OF RECORDS

1. Unless otherwise ordered by the Court, all original documents including translations and copies of judgments, decrees, orders and other papers, which are not required to be preserved, shall be returned to the party producing them after the expiry of the period for filing an appeal or if an appeal is filed, after the disposal of the appeal. The rest of the papers shall be marked, classified and arranged in files for the purpose of despatch to the Record Room as prescribed below.

2. (i) The papers which are required to be preserved permanently shall be marked "A" and kept in File "A"

(ii) The papers which are required to be preserved for 30 years shall be marked "B" and kept in File "B"

(iii) The papers which are required to be preserved for 5 years shall be marked "C" and kept in File "C"

(iv) The papers which are required to be preserved for 1 year shall be marked "D" and kept in File "D".

3. (i) **Papers to be preserved permanently.** — The following papers shall be permanently preserved :—

(1) all judgments, decrees and final orders of the High Court, except orders summarily dismissing appeals or applications.

(2) All registers of appeals and applications, including Writ Petitions.

(3) Such papers, in cases of historical, sociological or scientific value, as in the opinion of the Registrar, should be permanently preserved.

(4) Judgments, decrees and final orders of the Supreme Court in cases decided by the Bombay High Court.

(5) Files containing original judgments signed or initialed by the Judges.

¹[(6) Minutes and important correspondence.]

¹[(7) Inspection notes and important correspondence made on the basis of inspection notes which have entitled administrative representation, departmental enquiry or proceedings.]

¹. Inserted by Notification No.P.3603/85 Dt.21-8-1986

¹[(8) Original memoranda of appeals, and cross objections, and original revision applications, references and applications for review, without annexures.]

¹[(9) Applications under Articles 226 and 227 of the Constitution without annexures.]

(ii) Papers to be preserved for 30 years. — The following papers shall be preserved for 30 years :—

- (1) Judgments and/or orders of High Court summarily dismissing appeals and applications.
- (2) Paper-books or prints in cases in which a sentence of death or imprisonment for life is passed
- (3) Writs communicating final orders in applications decided under Articles 226 and 227 of the Constitution.
- (4) Farad Files, except farads of applications for interlocutory orders and applications necessary for the progress of the main proceeding.

(iii) Papers to be preserved for 5 years. — The following papers shall be preserved for 5 years :—

- (1) Paper-books other than those specified above in matters heard by the High Court.
- (2) Applications for interlocutory orders, applications necessary for the progress of the proceedings and applications for certificate for leave to appeal to the Supreme Court or to the High Court under the Letters Patent.
- (3) Applications for transfer, bail or stay of proceedings,
- (4) Faradas and Orders made by the High Court in interlocutory applications mentioned in items (2) and (3) above.
- (5) Reports called for from the lower Courts.
- (6) Writs Communicating final orders to the lower Court except interlocutory orders and orders in Writ Petition.
- (7) ²[Deleted]
- (8) ²[Deleted]
- (9) Printed copies of the transcript record of the Supreme Court.
- (10) Ferists and receipts of Records and Proceedings by the lower Courts.

1. Inserted by Notification No. Rule-P.3601/2022, dated 24th June, 2022 published in M. G. G. Part IV – C Ext. Ord. dated 30th June, 2022 pg. 2

2. Deleted by Notification No. Rule-P.3601/2022, dated 24th June, 2022 published in M. G. G. Part IV – C Ext. Ord. dated 30th June, 2022 pg. 4

(11) Copies of judgments of lower Courts or-Tribunals against which appeals or applications have been made to the High Court.

(12) Objections to findings on issues called for by the High Court.

¹["(iii-A) Papers to be preserved for three years.— The following papers shall be preserved for three years:—]

²[(1) Minutes and Important Correspondence, Pertaining to Inspection Department. The same be kept in the form of the soft copy by scanning the record.

(2) Inspection Notes, minutes and important correspondence made on the basis of Inspection Notes, carried out by the High Court of Subordinate Courts.]

²(3) ¹[The inspection notes and replies to the questionnaire received from the District and Sessions Judges or inspecting District Judges be destroyed after three years from the date .of their full compliance by them on the lines of Rule I (returns) and Rule 23 (Annual Statements of the Administrative Reports) Rules, 1900.]

²[(4) Minutes, final orders passed on the Administrative Appeals and Representations and important correspondence. The Minutes, Final order and Important Correspondence, the same be kept in the form of the soft copy by scanning the record.

(5) The documents of Historical value or documents prior to 1950, if any, should be placed before the Committee for orders or after verifying its importance steps be taken for its destruction.]

(iv) Papers to be preserved for one year. —.The following papers shall be preserved for 1 year :—

(1) Writs communicating interlocutory orders of the High Court to the lower Courts.

(2) Applications for issue of processes, etc.

(3) Applications for stay of execution of orders passed by the lower Courts.

(4) Applications for bail.

(5) Presentation Forms.

(6) Examination Memos.

1. Inserted by Notification No. P. 3603/85, Dt. 21-8-1986.

2. Inserted by Notification No. Rule-P.3601/2021, dated 11th August, 2022 Published in M.G.G. Part IV – C Ext. Ord. dated 12th August, 2022
pg. 1

- (7) Vakalatnamas.
- (8) Orders appointing Advocates in criminal matters.
- (9) Notices and Returns thereto.
- (10) R. & P. Writs including requests for extension of time for certifying R. & P.
- (11) Requisitions for printing.
- (12) Writs sending down the issues.
- (13) Notices of receipt of Findings.
- (14) Correspondence relating to Jail Petitions.
- (15) Writs for bail, arrest, stay, production of accused in Courts and other interlocutory orders.
- (16) Press copies of the record of the lower Courts.

¹[**3-A.** (i) The papers in rejected matters including First Appeals, Second Appeals, Civil Revision Applications, Writ Petitions, Contempt Petitions etc. shall be destroyed after a period of two years from the date of the Order of their rejection, if they are not taken away by the parties or their advocates as provided in Rule 9 of Chapter V;

(ii) Before destroying the papers as stated above, the concerned Officer shall notify three months in advance giving details thereof such as stamp number, the names of the parties, the name of the advocate/advocates, the date of rejection etc, The notice shall be published on notice-board on conspicuous space and the copies of the notice shall be sent to the Advocates' Associations.

(iii) The Officer concerned shall ensure that Court Fee Stamps and Stamp Papers in all rejected matters to be destroyed are cancelled before destruction.]

4. Computation of period for the preservation of Record. — The period prescribed above for the preservation of the records shall be computed from the date of the final decision of the case and in case of appeal to the Supreme Court, from the date of the final decision of the Supreme Court.

4-A. A Board file shall be preserved for three years from the date of the last board in that file.

4-B. The outward register, the inward register and the stamp register shall be preserved for five years from the date of the last entry in that register.

5. All files pertaining to any particular case shall be kept in one bundle bearing the number of the proceedings. Each file shall be accompanied by list of the papers filed therein.

¹ Added by Notification No. P3603/90, Dt. 20-9-1990.

6. Register of cases of which the records are to be destroyed to be maintained in the Record Room, - A register in the form given below shall be maintained showing the numbers and years of appeals and other cases received in the Record-Room of which the records are to be destroyed. The entries for each year shall be signed by the Record-keeper and the Assistant Registrar:-

Serial Number of the case	District	Date of receipt in the Record Room	Date of decision	Dates when due for destruction	Dates when actually destroyed
1	2	3	4	5	6

7. Destruction of records to be carried out in the Summer vacation. —Notice shall be publicly given on the Court Notice Board that parties leave documents and papers with the records of case at their own risk and that they are liable to be destroyed in accordance with the rules for the destruction of records.

8. The destruction of records shall be carried out in the summer vacation each year. The records to be destroyed should, if they cannot be conveniently burnt, be torn up into very small pieces and made quite incapable of use again as documents. The fragments should be sold to the highest bidder, and the proceeds credited to Government

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CHAPTER XVI

REFERENCES FROM THE BOMBAY COURT OF SMALL CAUSES AND UNDER SECTION 113 AND ORDER XLVI OF THE CIVIL PROCEDURE CODE

1. Cases to be forwarded to Registrar.—The case shall be signed by the Judge of the Court of Small Causes by whom the reference is made, and shall be forwarded together with other necessary papers to the Registrar, High Court, Appellate Side, Bombay.

2. Number and Title to be entered in Register. — The case shall be numbered and the number of the case and the names of the parties shall be entered in the Register of Civil References.

3. Date appointed for hearing to be notified. — The Registrar, as soon as the case is received, shall appoint a day for the hearing thereof, which shall not be sooner than four days from the day of its receipt, and he shall notify the day fixed for the hearing of the case to the Advocates of the parties if they are represented by Advocates or to the Registrar of the Court of Small Causes for communication to the parties if they are not represented by Advocates.

4. Copy of Judgment to be sent to Small Cause Court. — The Registrar shall, after disposal of the reference, forward to the Registrar of the Court of Small Causes a certified copy of the judgment or order of the High Court.

* * * * *

CHAPTER XVII

PETITIONS UNDER ARTICLES 226 AND 227 AND APPLICATIONS UNDER ARTICLE 228 OF THE CONSTITUTION AND RULES FOR THE ISSUE OF WRITS AND ORDERS UNDER THE SAID ARTICLES

¹1. (i) Applications for issue of writs, directions, etc. under Article 226 of the Constitution. — Every application for the issue of a direction, order or writ under Article 226 of the Constitution shall, if, the matter in dispute is or has arisen substantially outside Greater Bombay, be heard and disposed of by a Division Bench to be appointed by the Chief Justice. The application shall set out therein the relief sought and the grounds on which it is sought. It shall be solemnly affirmed or supported by an affidavit. In every such application, the applicant 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.

(ii) Applicant to inform Court, if, during pendency of an application, the Supreme Court has been approached. — If the applicant makes an application to the Supreme Court in respect of the same matter during the pendency of the application 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.

(iii) Hearing may be adjourned pending decision by Supreme Court. — The Court may adjourn the hearing of the application made to it pending the decision of the Supreme Court in the matter.

2. (i) Accompaniments to the application. — The applicant shall annex to his application typed copies of judgments and/or orders of the lower Courts or Tribunals and of affidavits and other relevant documents which are in English, or, where any of such documents are not in English, typed copies of translations in English of such documents. He shall file along with the application a duplicate copy of the application with the said annexures for the use of the Court. Both the original and the duplicate copy with the prescribed annexures shall be duly pagged and indexed:

²[Provided that such translations would not be necessary if the documents are in Marathi and if the party or the Advocate undertakes that English translations would be supplied whenever an order in that respect is made by the Court in a particular proceeding.]

1. Subs. by Notification No. P3601/2013, dt. 27-08-2013, M.G.G.-IV-C, dt. 28.08.2013

2. Added by Notification No. P. 3603/86 dated. 6-8-1986

(ii) Translations. — Any translations, other than official translations, annexed to the application shall be either certified to be true by the Advocate for the applicant or supported by an affidavit of the applicant affirming that the translations are true.

(iii) Accompaniments to applications against orders of Revenue Tribunal. — In applications against the orders of the Revenue Tribunal, the applicant shall, in addition, file a true copy each of the judgment and/or order of the Revenue Tribunal and certified copies of the judgments and/or orders of the Prant Officer, Mamlatdar or such other officer concerned in the proceedings.

(iv) Accompaniments to applications against orders of Election Tribunal. — In an application against the order of an Election Tribunal, the applicant shall, in addition to the annexures and accompaniments specified above, supply a typed copy of the memorandum of the application.

3. Notwithstanding anything contained in any other rules—

(i) Examination of applications. — The office shall examine the applications as expeditiously as possible and in any case complete the examination and keep the memoranda of objections in duplicate ready within six days from the date of filing;

(ii) Manner of notifying office objections. — As soon as the memorandum of objections is ready, the office shall notify the matter on a special Notice Board under the signature of the Assistant Registrar calling upon the party or the Advocate concerned to remove the office objections within 14 days from the date of such notification. The matters shall be notified with reference to the Stamp numbers or the Register numbers, as the case may be, the District from which they arise and the names of the Advocates, if any. A copy of the notice shall be kept filed in the office and a copy of the same shall be supplied to the Advocates Association of Western India. The office shall also endorse on the memorandum of objections and its duplicate the dates on which the matter was notified as above;

(iii) Period within which office objections should be removed. — The Advocate or the party concerned shall receive a copy of the memorandum of objections after acknowledging receipt thereof and shall remove all the office objections within the 14 days allowed under the foregoing sub-rule failing which the matter shall forthwith be placed before the Registrar, and the Registrar shall refuse registration:

Registrar's powers to excuse delay in removing office objections. — Provided, however, that, if the party or the Advocate removes all objections within a period of 14 days next after the expiry of the period prescribed under sub-rule (ii) above and also makes a regular application with the necessary court-fee stamp for excuse of delay in removing the objections, the Registrar may excuse the delay and order that the matter be registered;

(iv) Special provision for party appearing in person. — Notwithstanding anything contained in the foregoing sub-rules where a party appears in person, the office shall arrange to give him

under acknowledgment the memorandum of objections on the very day on which he presents the matter, unless the party agrees to call at a later date, in which case the office may give him a fixed date convenient to him (but not later than six days from the date of the presentation of the matter) on which he should call at the office for receiving the memorandum of objections, and the office shall keep the memorandum of objections ready on the said day and deliver it to him under acknowledgment. The party in such cases shall be required to remove the objections within a period of 14 days from the date of the receipt of the memorandum of objections. In case the party fails to turn up on the appointed day, the procedure prescribed under sub-rules (ii) and (iii) shall be followed;

(v) Special procedure where matters are required to be placed before Court, before removal of office objections. — Notwithstanding anything contained in the foregoing sub-rules, any application, which a party or an Advocate requires to be placed before the Court before removal of office objections, shall be registered subject to office objections, and may, subject to special or general order of the Court taking such matters, be placed before the Court, provided that the party, where he appears in person, and in all other cases, the Advocate undertakes in writing personally to remove all office objections including objections as regards court-fee. If rule is issued on any such application or ex parte order such as an order of injunction against a party, stay of execution of decree or an order, stay of further proceedings, etc., is made in respect of any such application pending the issue of rule or simultaneously, with the issue of rule, the office shall specify all objections within three days (excluding holidays) from the date of the order directing issue of rule or making such ex parte order, and the party or the Advocate as the case may be ¹[shall remove the office objection within 14 days from the date of the Court's order admitting the matter failing which the matter shall be placed before the Court which may dismiss it for want of prosecution]:

²The First Proviso.

Certain objections to be waived if the matter is summarily rejected,— Provided that, where an application is summarily rejected, all office objections except those relating to court-fee and Vakalatnama and those on which the objections relating to court-fee are based, shall be waived.

³4. Division Bench to dispose of the application; rule nisi may be granted by a Single Judge. — Applications under Rule I shall be heard and disposed of by a Division Bench; but a single Judge may grant rule nisi, provided that he shall not pass any final order on the application.

5. Summary rejection of the application and rule nisi. — The Court may either summarily dismiss the application or order rule nisi to be issued against the opponent against whom it is sought, as it deems fit. Any rule so granted shall be made returnable, except as otherwise ordered

1. Substituted by Notification No. P3603/86, Dt. 7-8-1986.

2. Deleted by Notification No. P3603/86 dt. 7.8-1986.

3. Subs. by Notification No. P3601/2013, dt. 27-08-2013, M.G.G.-IV-C, dt. 28-08-2013

by the Court, within a period which shall not be less than 14 days after the service thereof on the opponent.

6. Interim or interlocutory orders. — If the Court grants 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 the circumstances of the case may require.

7. Taxing of process fees. — Notwithstanding anything contained in any other rules —

(i) The office shall tax the process fees. —

(a) within three days from the date of the issue of rule by the Court in ordinary cases; ¹[and also from the date of issue of notice before admission.]

(b) immediately on the removal of the office objections in matters where rule has been ordered to be issued subject to office objections; and

(c) immediately on the passing of the order by the Court in matters where an ex parte order of the kind referred to in Rule 3(v) above is made;

(ii) Payment of process fees and supply of copies of application. — The applicant or his Advocates shall pay process fees and supply, unless otherwise directed by the Court, as many typed copies of the application with the annexures as prescribed in Rule 2 as there are respondents —

(a) within 14 days from the date of the issue of rule in ordinary cases;

(b) immediately on the removal of the office objections in cases where rule has been ordered to be issued subject to office objections; and

(c) immediately on the passing of the order in matters where an ex parte order of the kind referred to in Rule 3(v) above is made;

(iii) Application to be dismissed in case of default of payment of process fees or failure to supply copies. — When the process fees are not paid and/or the requisite number of copies of the application are not supplied within the time prescribed under sub-rule (ii) above, the application shall be placed forthwith before the Registrar for orders and the Registrar shall dismiss the application for failure to prosecute:

Registrar's powers to excuse delay in payment of process fees and supply of copies.
— Provided, however, that, if the party or the Advocate pays the, necessary process fees and/or supplies, the necessary copies within a period of 14 days next after the period prescribed for the same under the foregoing sub-rule of this rule and also makes a regular application with the

1. Notification No.P.3607/98, dated 24-7-1998, published in M.G.G. Dt. 5-11-1998, Part 4-C,page 1220.

necessary court-fee stamp for excusing the delay, the Registrar may excuse the delay and order that the process be issued.

(iv) Stay order not to be communicated unless process fees are paid and copies are supplied. — No communication of any ex parte order of the kind mentioned in Rule 3(v) above shall be sent by writ or otherwise to the lower Court or Tribunal or Authority or to the opposite party, unless the requisite process fees are paid and the necessary number of copies of the application with annexures is supplied both in the main matter) if any, and in the Civil Application in which the ex parte order is made.

(v) Affected party may move Court for discharge of stay, after notice to the other party.— A party against whom an ex parte order of stay, injunction, etc., has been passed by the Court shall be entitled to approach the Court for getting the stay order discharged after giving 24 hours' notice to the party or parties who are likely to be affected by such order of discharge, if it is passed by the Court.

8. (i) Service of rule nisi. — Rule nisi granted as above shall, along with a copy of the interim or interlocutory order, if any, be served on the opponent in the manner prescribed in Order V of the Code of Civil Procedure, 1908, for service of a summons upon a defendant in a suit.

(ii) Special provision for service on Public Officers in Greater Bombay and Nagpur. — Where a Public Officer whose office is situated in Greater Bombay, Nagpur City ¹[or Aurangabad City] is to be served in his official capacity with the notice of any rule issued in a proceeding under this Chapter, service of the notice may be effected by delivering or tendering a copy of such notice to such officer or any subordinate of such officer not lower in rank than a Superintendent or a Head Clerk in his office, and obtaining the signature of such officer or his subordinate on the original in token of receipt of the notice.

iii) Procedure where rule is unserved or not properly served. — If the notice of rule issued in any case is returned unserved or without being properly served the following procedure shall be followed ;—

(a) List of rules not served or not properly served, to be published. — The office shall on the first working day of the week place on the Notice Board under the signature of the Assistant Registrar a list of such cases stating therein —

(1) the number of the case,

(2) the name of the Advocate for the applicant, if any,

(3) the name of the opponent on whom the notice of rule has been returned unserved or not properly served,

(4) the date of the return made to the Court by the Officer serving the notice, and

1. Added by Notification No. P. 3601/82, Dt. 29-4-1983.

(5) the date on which the unserved or not properly served notice of rule was received in the office.

(b) Publication of the list to be sufficient notice. — The publication of such list shall be deemed sufficient notice to the applicant or his Advocate of the non-service or of the service not being proper. A copy of such list shall be supplied to the Advocate's Association of Western India for its use.

(c) Action for fresh service etc. to be taken within 14 days of publication of list. — A party or the Advocate shall within 21 days from the date of the publication of the list on the Notice Board take the necessary steps for getting the notice of rule served where it has been returned unserved, or to get it properly served as required under Rules 20, 20-A and 21-A of Order V of the Code of Civil Procedure, 1908, where it is not properly served.

(d) Dismissal for failure to prosecute. — Immediately on the expiry of the said period of 14 days if no steps have been taken by the party or the Advocate to get the notice of rule served or properly served, the office shall forthwith place the matter before the Registrar and the Registrar shall dismiss the matter for failure to prosecute:

Registrar's power to excuse delay in taking action in regard to service of Rule— Provided, however, that, if the party or the Advocate takes necessary steps to get the notice of rule served or properly served within 14 days next after the period prescribed under the foregoing sub-rule and also makes a regular application with the necessary court-fee stamp for excusing the delay, the Registrar may excuse the delay and order the matter to be proceeded with.

(iv) Procedure when a party dies. — The following procedure shall be followed where an applicant or an opponent dies during the pendency of the application:—

(a) The applicant or his legal representative, as the case may be, shall apply within 90 days from the date of the death of the deceased party to bring the legal representative or representatives of the deceased party on record.

(b) If such an application is made within such period of 90 days and if there is no dispute as to who the legal representative is, the Registrar shall grant such application and amend the record by bringing the proposed legal representative or representatives on record.

(c) If no such application is made within the said period of 90 days, or such application is made beyond the said period, or there is a dispute as to who the legal representative is, the main application, along with the application or applications for bringing the legal representative or representatives on record, if any, shall be placed before the Court for orders.

9. Receipt of Record and Proceedings to be notified before hearing. — The Record and Proceedings called for shall be notified immediately on receipt of the same in the office and the application shall not be placed before the Court for hearing before the expiry of seven days from

the date of the notification of the Record and Proceedings, unless otherwise ordered by the Court.

10. (i) Contents of paper-books. — Paper-books for the purposes of this rule shall include the petition or the application and its annexures, affidavits in support of the petition or the application, counter affidavits and affidavits in reply and any other document or copy of document intended to be read or perused by the Court at the hearing of the application.

(ii) Manner of printing, typing, etc. of paper-books, their indexing and paging, — Paper-books shall be neatly and legibly, typewritten, cyclostyled or printed with double space between lines and ¹[use 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.] Every tenth line shall be numbered in the margin. The paper-book [including annexures and other papers mentioned in sub-rule (i) above] shall be properly indexed and neatly bound with pages numbered consecutively. Where different parties file papers forming part of the paper-book at different stages or times, each party shall take care to number the pages of the part of the paper-book filed by it in continuation of the paper-book already filed or compiled. Court-fee stamps if any, shall be neatly affixed so as to cover any portion of typewritten, cyclostyled or printed matter or in the margin.

(iii) Copies of documents to be filed after rule nisi to be supplied to other parties before filing. — Any party wishing to file after the issue of rule any document intending it to be part of the paper-book, shall do so after serving a copy or copies thereof on the opposite party or parties, and if the party wishing to file the documents be the opponent, upon other opponents also, and shall file written acknowledgment or acknowledgments of having so served such copy or copies. Two copies (or more, if required) shall be filed for the use of the Court.

(iv) Manner of computing costs of paper-books. — A party to whom costs are awarded shall be entitled to the costs of the paper- book which shall be calculated at the following rates :—

(a) For translations the rate shall be 75 paise per folio of 100 words, exclusive of the cost of typing, cyclostyling or printing,

(b) For typewritten matter the rate shall be 60 paise per page for the first copy and 30 paise per page for every additional copy, the page consisting of running matter of not less than 250 words.

(c) For cyclostyled matter the rate shall be Rs. 5 per page of running matter consisting of not less than 250 words, irrespective of the number of copies.

(d) For printed matter the rate shall be Rs.8 per page of running matter consisting of not less than 40 lines, irrespective of the number of copies.

(e) For tabular matter the rate shall be one and half times the rate prescribed respectively at (b), (c) and (d) per page, accordingly as the matter is typewritten, cyclostyled or printed. The minimum regarding the contents of page shall not apply.

¹ Substituted by notification No. P. 1604/2021, dated 6th July 2021.

(f) Fractions of above units which are less than half shall not be counted and fractions of the same which are equal to half or more than half shall be counted as one.

(g) Cases for which there are no clear or sufficient provisions shall be decided by the Taxing Officer in his discretion having regard to the general principles underlying the above provisions.

11. Answer to rule nisi, — An answer to rule nisi showing cause against such application shall be made by filing at least two days before the returnable date of the rule an affidavit in the office of the Registrar, a copy whereof shall be served upon the applicant.

12. Service of rule nisi on other parties. — The Court may in its discretion at any time before a final order is made on the application, order rule nisi to be served on any party likely to be affected by any order which the Court may make in the matter. The provisions contained in the foregoing rules relating to service of the notice of rule and filing of the affidavit in reply shall apply to such a case.

13. Further affidavit not allowed. — No further affidavit or affidavits shall be filed by any party except with the leave of the Court.

14. Oral testimony. — If cause be shown or answer made upon affidavit putting in issue any material question of fact, 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.

15. Procedure in case of difference of opinion between Judges. — In case of difference of opinion between the judges composing the Division Court, the point of difference shall be decided in accordance with the procedure laid down in section 98 of the Code of Civil Procedure, 1908.

After the third Judge has given his opinion, the petition shall be placed before the Division Bench which had originally heard the petition and it shall pronounce the final judgment or order disposing of the matter:

¹[Provided that where one of the Judges constituting such Division Bench has ceased to be a Judge of the High Court or has for the time being ceased to sit at Bombay, Nagpur, Aurangabad or Goa, as the case be (the Division Bench whereof originally heard the matter), the matter shall be placed before the Division Bench of which the other Judge is a member :

Provided further that where both the Judges have ceased to be the Judges of the High Court or have ceased to sit at Bombay, Nagpur, Aurangabad or Goa, as the case be, the Division Bench whereof originally heard the matter shall be placed before a Division Bench dealing with the class of cases to which the referred matter belongs.]

1. Substituted by Notification No.3604/87, Dt. 24-9-1987.

And the Division Bench referred to in the provisos shall pronounce the Final judgment or order disposing of the matter.

16. Costs. — The costs of all applications and orders made under this Chapter shall be in the discretion of the Court.

¹17. (i) Applications under Article 227 and 228. — An application invoking the jurisdiction of the High Court under Article 227 of the Constitution or under Article 228 of the Constitution, shall be filed on the Appellate Side of the High Court and be heard and disposed of by a Division Bench to be appointed by the Chief Justice. The application shall set out therein the relief sought and the grounds on which it is sought. It shall be solemnly affirmed or supported by an affidavit. In every such application, the applicant 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 is disposed of.

(ii) Applicant to inform Court, if, during pendency of an application, the Supreme Court is approached. — If the applicant makes an application to the Supreme Court in respect of the same matter during the pendency of the application 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.

(iii) Hearing may be adjourned pending decision by the Supreme Court. —The Court may adjourn the hearing of the application made to it pending the decision of the Supreme Court in the matter.

(iv) Rules 2 to 16 to apply mutatis mutandis. — Provisions of Rules 2 to 16 above shall apply mutatis mutandis to all such applications.

¹18. Single Judge's powers to finally dispose of applications under Article 226 or 227.— Notwithstanding anything contained in Rules 1,4 and 17 of this Chapter, applications under Article 226 or under Article 227 of the Constitution (or applications styled as applications under Article 227 of the Constitution read with Article 226 of the Constitution) arising out of—

(1) The orders passed by the Maharashtra Revenue Tribunal under any enactment,

(2) The orders passed by any Authority or Tribunal (other than the Maharashtra Revenue Tribunal) under the Bombay Tenancy and Agricultural Lands Act, 1948. or the Bombay Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Act, 1958, the Hyderabad Tenancy and Agricultural Lands Act. 1950 or Maharashtra Agricultural Lands (Ceiling on Holdings) Act, 1961.

¹ Subs. by Notification No. P3601/2013, dt. 27-08-2013, M.G.G.- IV-C, dt. 28-08-2013

- (3) The decrees or the orders passed by any Subordinate Court or by any quasi Judicial Authority in any suit or proceeding (including suits and proceedings under any Special or Local Laws), but excluding those arising out of the Parsi Chief Matrimonial Court and orders passed under the Recovery of Debts Due to Banks and Financial Institutions Act, 1993; the Administrative Tribunals Act, 1985; the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes, (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000;
- (4) The orders and decisions of the Courts constituted under the Code of Criminal Procedure, except the applications for quashing an F.I.R., C.R. Charge Sheet or an order directing investigation under Section 156(3) of the Cr.P.C. irrespective of whether such applications have been filed under Section 482 simpliciter or read with Article 226 and/or Article 227 of the Constitution.
- (5) The decrees or the orders passed by any Subordinate Court in appellate or revisional proceedings arising from suits or proceedings mentioned in Clause (3) above, or
- (6) The orders passed by any authority under the Bombay Rents, Hotel and Lodging House Rates (Control) Act, 1947 or the Central Provinces and Berar Letting of Houses and Rent Control Order, 1948 or the Hyderabad House (Rent, Eviction and Lease) Control Act, 1954;
- (7) The orders passed under the Maharashtra Housing and Areas Development Act, 1976 and under the enactments repealed by the said Act;
- (8) The orders passed by the Tribunal constituted under the Nagpur Improvement Trust Act, 1936;
- (9) The orders passed under the Maharashtra Slum Areas (Improvements, Clearance and Re-Development) Act, 1971;
- (10) The orders passed under the Industrial Disputes Act. 1947;
- (11) The orders made in applications under the Bombay Industrial Relations Act, 1947;
- (12) The orders passed under the Maharashtra Restoration of Lands to Scheduled Tribes Act, 1974;
- (13) The orders passed under the Maharashtra Co-operative Societies Act. 1961;
- (14) The orders passed under Chapters VI and VII of the Maharashtra Recognition of Trade Unions and Prevention of Unfair labour Practices Act, 1972;
- (15) The orders passed by the Appellate Authority under the Beedi and Cigar Workers (Conditions of Employment) Act, 1966;

- (16) The orders passed under the Payment of Gratuity Act, 1972;
- (17) The orders passed under the Workmen's Compensation Act, 1923;
- (18) The orders passed under the Payment of Wages Act, 1936;
- (19) The orders passed under the Minimum Wages Act, 1948;
- (20) The orders passed under the Bombay Prohibition Act, 1949;
- (21) The orders passed under the Maharashtra Land Revenue Code, 1966;
- (22) The orders passed under the Bombay Stamp Act, 1958;
- (23) The orders passed under the Bombay Police Act, 1951;
- (24) The orders passed under the Bombay Shops and Establishments Act, 1948;
- (25) The orders passed under the Bombay Port Trust Act, 1879;
- (26) The orders passed under the Bombay City (Inami and Special Tenures) Abolition and Maharashtra Land Revenue Code (Amendment) Act, 1969;
- (27) The orders passed under Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970;
- (28) The orders passed under the Displaced Persons (Compensation and Rehabilitation) Act, 1954;
- (29) The orders passed under the Electricity (Supply) Act, 1948;
- (30) The orders passed under the Employees' Provident Funds and Misc. Provisions Act, 1952;
- (31) The orders passed under the Employees' State Insurance Act, 1948;
- (32) The orders passed under the Factories Act, 1948;
- (33) The orders passed under the Indian Railways Act, 1890;
- (34) The orders passed under Section 3 the Electricity Act, 2003;
- (35) The orders passed under the Motor Vehicles Act, 1939;
- (36) The orders passed under the Minimum Wages Act, 1948;
- (37) The orders passed under the Major Port Trust Act, 1963;

- (38) The orders passed under the Merchant Shipping Act, 1958;
- (39) The orders passed under the Wireless Telegraphy Act, 1933;
- (40) The orders passed under the Registration Act, 1908;
- (41) The orders passed under the Maharashtra Universities Act, 1994;
- (42) The orders passed under the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977;
- (43) Orders passed under Bombay Primary Education Act, 1947 (Bombay Act No. LXI of 1947);
- (44) Orders passed under the Land Acquisition Act, 1894 for acquiring land for re-settlement of the Project affected Persons in accordance with the provisions of Maharashtra Resettlement of Project Displaced Persons Act, 1976 (Mah. Act No. XLI of 1976) or Maharashtra Project Affected Persons Rehabilitation Act, 1986 (Mah. Act No. XXXII of 1986);
- (45) Orders passed under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971;
- (46) Orders passed under Bombay Public Trusts Act, 1950,

may be heard and finally disposed of by a Single Judge appointed in this behalf by the Chief Justice:

Provided when the matter in dispute is or relates to the challenge to the validity of any statute or any rules or regulations made thereunder, such application shall be heard and disposed of 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 1 to 46 or any Clause that may be added hereinafter to, a Division Bench:

Provided also that all petitions/applications under Article 226 and/or 227 of the Constitution of India arising out of or relating to an order of penalty or confiscation or an order in the nature thereof or an order otherwise of a penal character and passed under any special statute shall be heard and decided by a Division Bench hearing Writ Petitions.

Explanation – The expression “order” appearing in clauses (1) to (46) means any order passed by any judicial or quasi judicial authority empowered to adjudicate under the abovementioned statutes.

¹18(A). 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.

(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”.

19. Registrar's powers to pass certain orders. — The Registrar shall have power to pass the following orders :—

- (a) Orders regarding deletion of the names of the parties or substitution of heirs when applications are in time.
- (b) Orders regarding requests for Record and Proceedings or for additional Record and Proceedings
- (c) Orders on notes of withdrawal of appearance
- (d) Orders on notes of translation.
- (e) Orders on reports regarding non-service of affidavits, notes, etc., on the other side
- (f) Orders on applications for appointment of guardian of a minor
- (g) Orders on applications for showing parties as major.

20. Procedure for revising the Registrar's orders refusing registration and dismissing for failure to prosecute. — Notwithstanding anything contained in Rule 7 of Chapter II an order of the Registrar refusing registration under Rule 3(iii) of this Chapter or dismissing a matter for failure to prosecute under any one of the provisions of this Chapter shall be revisable only upon a regular stamped application which shall be Filed within seven days from the date of the order of the Registrar complained of, provided that the Court may, for good cause shown, condone the delay in making the application. Such application shall, unless dispensed with by the Court, be

1. Inserted vide Notification No. 3603/2021, dated: 12st May 2021, published in MGG 2021, Ext. Ord. Part 4-C, dated 19.05.2021

supported by an affidavit explaining the circumstances under which the various steps could not be taken within the prescribed time.

Execution of Orders

21. Drawing up of order including cost. — Every order passed on Civil Applications under Article 226 of the Constitution including any order as to costs, shall be drawn up as if it were a decree and shall be executable as a decree in the manner provided in the Code of Civil Procedure.

22. Applications under section 82, Civil Procedure Code. — (i) Applications under section of the Code of Civil Procedure for making a report of non-satisfaction to the State Government of any order or decree passed in any Civil Application under Article 226 of the Constitution shall be supported by an affidavit of the applicant and shall be accompanied by a certified copy of the decree or order.

(ii) Applications under the above sub-rule shall be heard and disposed of by the Registrar.

(iii) If the Registrar is satisfied that the order or decree is not satisfied within the time specified therein and that the execution of the order or decree is not barred by any provision of law, he may make a report of non-satisfaction to the State Government.

23. Execution of order or decree on Original Side. — Any order or decree in a Civil Application under Article 226 of the Constitution passed on the Appellate Side and the non-satisfaction of which has been reported to the State Government under the preceding rule may be transmitted to the Original Side of this Court for execution and, if so transmitted, shall be executed in accordance with the procedure prescribed for execution of decrees and orders passed in the exercise of the Ordinary Original Civil jurisdiction of this Court.

¹[Explanation — An order or decree in a Civil Application under Article 226 of the Constitution of India, decided at the Benches at Nagpur, Aurangabad and Panaji will be transmitted to the Court of competent civil jurisdiction for execution.]

24. Application for transmission of order or Decree to Original Side or any other Court for execution. — (i) Every application for transmitting the order or decree to the Original Side of this Court for execution or for transmitting the order or decree to any other Court for execution under section 39 of the Code of Civil Procedure shall be supported by an affidavit of the applicant and shall be accompanied by a certified copy of the order or decree.

(ii) Applications under the above sub-rule shall be heard and disposed of by the Registrar.

(iii) The Registrar, when transmitting the decree or order, shall send all the documents necessary to be sent under the provisions of Order XXI, Rule 6 of the Code of Civil Procedure and such other documents as he may deem necessary to the Court to which the decree or order a foresaid

¹ Added vide Notification Dt. 17/18-1-2001, published in M.G.G., Dt. 1-2-2001, Pt. 4-C., pg. 14.

is transmitted for execution. Such documents, except when the transmission is to the Original Side of this Court, may be sent directly by Registered Post to the Court concerned.

25. Notice under Order XXI, rule 22, Civil Procedure Code. — (i) Where the provisions of Order XXI, rule 22 are applicable, notice thereunder shall be issued by the Court to which the said decree or order is transmitted under the preceding rule.

(ii) Such Court shall determine all matters arising out of or in relation to the execution of the said decree or order transmitted for execution.

26. Reference to Court for orders in case of doubt. — In case of doubt or difficulty in regard to any application under rules 21 to 25, the Registrar may refer such application to the Court for orders.

27. Execution of orders under Article 227. — An order made by the High Court under Article 227 of the Constitution shall be executable in the same manner in which the order made by the Court or Tribunal, against which the application under Article 227 has been made, could have been executed under the law.

28. Rules applicable to Civil Appeals and Applications, shall except otherwise provided in this Chapter apply mutatis mutandis, to Writ Petitions.

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¹CHAPTER XVIII
CASES FOR CONFIRMATION OF A DECREE UNDER
THE INDIAN DIVORCE ACT, OF 1869

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1. Deleted by Notification No. P.3601/2007, Dt. 18.8.2007, published in the M.G.G. Pt. IV-C, Dt. 6.9.2007.

CHAPTER XIX

RULES MADE UNDER SECTION 4(2) OF THE CITY OF BOMBAY MUNICIPAL (SUPPLEMENTARY) ACT, XII OF 1888

1. Appeals under section 515 of the Bombay Municipal Corporation Act – (i) An appeal from an order passed by a Metropolitan Magistrate under section 515 of the Bombay Municipal Corporation Act, III of 1888, shall be treated as an appeal under the Code of Civil Procedure and placed before a Division Court on the Appellate Side for admission.

(ii) The procedure to be followed in the adjudication thereof shall be the same as that provided in the case of Civil appeals.

2. Cost – The costs payable in respect of such appeals and proceedings shall be taxed as in an appeal under a Special Act on the Appellate Side, unless otherwise ordered by the Court; Provided that the Court shall have power to fix any lump sum by way of costs or to award costs on the scale allowed in a Civil Appeal on the Original Side if it thinks fit to do so.

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CHAPTER XX

APPEALS UNDER THE INSURANCE ACT, IV OF 1938

1. Hearing of appeals by Division Bench. — All appeals under the Insurance Act, 1938 (IV of 1938), shall if the registered office of the Insurer or the Provident Society is situate outside Greater Bombay, be heard and disposed of by a Division Bench to be appointed by the Chief Justice.

2. Form of appeal.—All such appeals shall be made by a petition 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.

3. Order on petition of appeal.— The petition shall be placed before the Division Bench, which 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.

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CHAPTER XXI

Rules under the Banking Regulation Act, 1949 (Act X of 1949) Applicable to Applications filed in the Office of the High Court at Nagpur.

1. Definitions. — In these rules, unless the context or the subject-matter otherwise requires, —

- (a) "Act" means the Banking Regulation Act, 1949 (Act X of 1949), as amended from time to time;
- (b) "Company" means a Company to which the provisions of the Act apply;
- (c) "Registrar" means the Registrar of the High Court, Appellate Side, for the time being;
- (d) "Liquidator" means the Court Liquidator appointed under section 38-A(1) of the Act, or any person duly performing his functions.

1A. Applicability. — The Rule in this Chapter shall apply only to the applications filed in the office of the High Court at Nagpur.

2. Presentation and hearing of application under Part III or Part III-A of the Act. — An application under Part III or Part III-A of the Act in respect of a Banking Company having its Registered Office or, in the case of Company incorporated outside India, its principal place of business outside the territorial limits of Greater Bombay, shall be filed in the Office of the Registrar. The application shall be signed and verified in the same manner as a plaint and shall be supported by an affidavit. It shall be heard by a Single Judge, who may reject it summarily or pass such orders and give such directions as he may deem proper, including directions for notice of the application being given to such person or persons as may seem to him likely to be affected by the proceedings.

3. General Headings. — Applications under Part III or Part III-A of the Act shall be intitled 'In the matter of the Act' and 'In the matter of Banking Company' and where necessary in the matter of the Act under which the Banking Company has been ordered to be wound up.

4. Application of rules under the Act. — Save as otherwise provided for in these rules, the rules framed by this High Court under the Indian Companies Act, 1913, and the Companies (Courts) Rules, 1959, framed by the Supreme Court, shall, with necessary modifications and adaptations, apply to proceedings under the Act.

5. General duties and powers of special officer. — Without prejudice to the generality of the powers of the Court under section 37(3) of the Act:—

- (a) A Special Officer appointed under section 37(3) of the Act shall furnish security in such amount as may be ordered by the Court.
- (b) He shall generally have all the powers and shall take all the steps to do all the things necessary or expedient to protect the rights and interest of all creditors and share-holders

of the Banks, and to conserve and ensure the proper disposition, according to law, of the assets of the Bank.

(c) The Special Officer may be empowered to represent the Company in proceedings before any Court, Tribunal or Public Officer.

(d) The Special Officer may apply to the Court for such directions as he may deem necessary.

(e) The Special Officer shall, where his duties so require, maintain proper accounts.

(f) The Special Officer shall be paid such remuneration as may be determined by the Court, which shall be paid, unless the Court otherwise directs, from the assets of the Company.

(g) The Special Officer shall continue to supervise the affairs of the Bank until he is removed from Office, or the term of his appointment terminates or until the Company resumes business or until a Liquidator is duly appointed to wind up the business of the Company.

6. Inspection report of Reserve Bank of India. — No person, other than the parties to the proceedings and the Liquidator, shall be entitled to inspection of any report made by the Reserve Bank of India, or be entitled to received a copy thereof without an order of the Court.

7. Notice of application. — Where a notice is directed to be given to any party, it shall be served together with a copy of the application, and the application shall not be heard until 14 days after the service of the notice, unless the Judge otherwise directs. The applicant shall supply the requisite number of copies of the application for service.

8. Applications in winding up to be by petition. — Applications for the determination of all questions of priorities and all other questions whatsoever whether of law or fact, which may relate to or arise in the course of the winding up of the Company, shall be made by petition. The petition shall contain a statement of facts relied on and the nature of the relief asked for. The petition shall be signed and verified in the same manner as a plaint and shall be supported by an affidavit.

9. 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 Company, or to such other Judge as the Chief Justice may direct. That Judge shall direct notice of the petition to be given to the respondent or such person or persons as may seem to him likely to be affected by the proceedings. Such notice shall be served together with a copy of the petition, and the petition shall not be heard until 14days after service of the notice, unless the Judge otherwise directs. The petitioner shall supply the requisite number of copies for service.

10. Affidavit in answer. — An answer to the petition mentioned in rule 9 shall be made by filing an affidavit and a copy thereof shall be furnished to the petitioner or his attorney or his Advocate at least two clear days before the returnable date of the notice.

11. Direction for hearing of 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.

12. Transfer of suits and proceedings to High Court. — When the Liquidator submits to the Court a report under section 45-C(2) of the Act, he shall apply to the Judge for the time being dealing with the proceedings for the winding up of the Banking Company or to such other Judge as the Chief Justice may direct, for directions as to the parties to whom notice may be given and the date and time for holding an inquiry whether or not the suits and proceedings mentioned in the report should be transferred to the High Court. The notice shall contain particulars of the suit or 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 ordinarily be served 14 days before the date appointed for holding the inquiry.

13. Affidavits in reply. — Any party desiring to oppose the transfer of the suit or proceeding to the High Court shall file an affidavit and furnish a copy thereof to the Liquidator or his Attorneys or Advocate at least two clear days before the returnable date of the notice.

14. List of debtors. — When the Liquidator files in the Court a list of debtors under section 45-D(2) of the Act, he shall obtain an appointment from the Judge for the time being dealing with the proceedings for the winding up of the 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 Liquidator, a similar notice in writing shall be given to every person to whom such variation or addition applies. All such notice shall be served four weeks before the date appointed to settle such list, variation or addition.

15. 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 abode and such notice shall be considered as served at the time the same ought to be delivered in due course of delivery by the Post Office and notwithstanding the same may be returned by the Post Office.

16. 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 Liquidator or his Attorneys or Advocate at least seven clear days before the day appointed for the settlement of the list.

17. Settlement of list of Debtors. — On the date fixed for settlement of the list of debtors, the Court may settle the list or such part thereof as it may think proper. If the Court is of opinion that it is not immediately possible to adjudicate upon any particular debt mentioned in the list, it may give such directions as it may think proper as to discovery and inspection, examination of

witnesses in Court or in Chambers, taking of evidence by affidavit or otherwise and generally for the speedy adjudication of the debt. The Court may in a special case refer the Liquidator to a regular suit.

18. Liquidator to report if he contests claims of Depositors. — If the 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 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 Court 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.

19. Registrar of suits in winding up matters. — Suits in respect of claims made by or against any Company in Liquidation including claims by or against any of its Branches in India, which are filed or transferred to the High Court under the Act, shall be entered in a separate list to be maintained by the Office of the Registrar and shall be treated as expedited suits. If such suits have been filed before the date of the order for winding up, the Liquidator shall furnish to the Registrar a list of such suits.

20. Hearing of suits and connected matter. — 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 proceeding for the winding up of the Company or by such other Judge as the Chief Justice may direct.

21. Procedure in such suit. — The Judge, shall, save as otherwise provided in these rules, follow the procedure prescribed having regard to the nature of the suit. Summary procedure shall be followed for summary suits and regular procedure for other suits, provided that in regular suits the following procedure shall be followed :—

Within 10 days of the service or the writ of Summons of such longer period as the Judge may direct on the application of the plaintiff in that behalf, the plaintiff shall take out a summons directions, and the Judge shall give such directions, as he may think proper, as to filing the written-statement, set-off or counterclaim, if any, or points of defence, discovery, inspection, examination of witnesses in Court or in Chambers, taking of evidence by affidavit or otherwise and generally for the speedy determination of the suit.

22. When proceedings not transferred, Court may request expedition of the same. — If any proceeding pending in any Court is not transferred to the High Court under section 45-C(3), the Judge for the time being dealing with the proceedings for the winding up of the Banking Company or such other Judge as the Chief Justice may direct, may issue directions to the Registrar to write a letter of request to the Court in which the proceedings is pending, requesting that the proceeding may be disposed of as expeditiously as possible.

23. 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 the Company or to

such other Judge as the Chief Justice may direct, for permission to inspect the records of the Company or of the High Court in the matter of the Company, and such permission may be granted by the Judge in his discretion.

24. Presentation of complaint and issue of process. — Proceedings under section 45-J of the Act shall commence with a complaint being presented by the Liquidator to such Judge as the Chief Justice may direct. On presentation of the complaint, the Judge may issue a summons or a bailable or non-bailable warrant against the accused and shall fix a date for the trial, or may, if he thinks fit, postpone the issue of process for compelling the attendance of the person complained against and may direct an inquiry or investigation to be made by the Inspector-General of Police or by such other person as he thinks fit, or may dismiss the complaint as he may, in his discretion, think fit.

25. Process in criminal cases. — All complaints shall be Filed in the Office of the Registrar and all processes shall issue from his office.

26. Offences triable summarily. — (i) Offences punishable under the Indian Companies Act, 1956 (Act I of 1956), or under the Act 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. (ii) An offence triable under section 45-J(1) 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.

27. (i) Procedure in summary trials. — Where an offence triable under section 45-J(1) is tried summarily, the procedure provided in the Code of Criminal Procedure for the trial of summons cases shall, so far as it is not inconsistent with the provisions of the Act, be applicable, Where, however the offence to be tried summarily under section 45-J(1) is tried jointly with 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 246(4) 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.

(ii) Procedure in non-summary trials. — Where the offences triable under section 45-J are not tried summarily, the procedure provided in the Code of Criminal Procedure for the trial of warrant cases shall, so far, as it is not inconsistent with the provisions of the Act, be applicable.

28. Bail. — The Court may at any time grant bail to the accused on such terms as it thinks proper.

29. Accused person to be competent witness. — Any person against whom a complaint is filed by the Liquidator under the Act shall be a competent witness for the defence and may give evidence on oath in disproof of the charges made against him or any person charged together with him at the same trial:

Provided that—

(a) he shall not be called or examined as a witness except with his consent,

(b) his failure to give evidence shall not be made the subject of any comment by the prosecution or give rise to any presumption against himself or any person charged together with him at the same trial.

(c) he shall not be asked, and if asked shall not be required to answer any question tending to show that he has committed or been convicted of any offence other than the offence with which he is charged or is of bad character, unless –

(1) 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,

(2) he has personally or by his Advocate, asked questions of any witness for the prosecution with a view to establish his own good character, or has given evidence of his good character, or the nature or conduct of the defence is such as to involve imputations on the character of the prosecutor or of any witness for the prosecution, or

(3) he has given evidence against any other person charged with the same offence.

30. Summoning of witnesses. — (i) The party applying for the summons to a witness in civil or criminal proceedings shall, before the summons is granted, pay into Court such a sum of money as will be sufficient to defray the travelling and other expenses of the persons summoned in passing to and from the Court and for one day's attendance in accordance with the scale prescribed in the Criminal Manual.

(ii) The witness shall, if obliged to attend for more than one day, be entitled before giving his evidence, to claim from the party by whom he shall have been summoned, his expenses at the rates specified in sub-rule (i) for each additional day that he may be required to attend.

(iii) Applications for the issue of summons may be granted by the Registrar.

31. Recording of evidence. — Upon the hearing of any suit or proceeding transferred to this Court or proceedings whether civil or criminal under the Act, in this Court, the evidence of the witnesses shall be taken down in writing in the language of this Court by, or in the presence and under the superintendence 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.

32. Compounding of offences. — All offences triable under Part- III-A of the Act may be compounded with the leave of the Court.

33. Supervision of Compromises 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 (I of

1956), sanctioning a compromise or arrangement in respect of a Company is passed the Judge may direct the 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.

34. Recovery of dues as arrears of revenue. — When the Court grants leave under section 45-T(3) of the Act for recovery of any amount found due to the Company, the Liquidator may apply to the proper Revenue Authorities to recover the said amount as an arrear of land revenue.

Civil Appeals

35. Appeal to High Court to be heard by Division Court. — (i) Subject to the provisions of section 45-N(1) of the Act, an appeals shall lie from an order or decision of a Judge in a civil proceeding under the Act to the High Court.

(ii) 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.

36. Form and applicability of High Court Appellate Side Rules. — (i) Except in so far as otherwise provided in these rules, the appeal shall be in the form prescribed for regular First Appeals; and the High Court Appellate Side Rules with regard to the First Appeal shall, with necessary modification and adaptations, apply to the Civil Appeals under the Act.

(ii) In addition to the printing charges prescribed, the appellant shall within 14 days from the date of the admission to the Register of the appeal deposit the typing charges for the preparation of five paper books, as estimated by the Office, The rate chargeable for typing will be Re.1 per page inclusive of five copies, in addition to the charges at the rate of three Paise per foolscap paper. Any amount in excess of the estimated cost deposited by the Appellant shall be paid when the paper- books are ready.

(iii) The office shall give intimation to the appellant, or his Advocate or Attorney, when the paper-books are ready stating, where necessary, the additional amount which he is required to pay.

37. Period within which appeal and copies should be filed. — The appeal shall be filed within 20 days from the date of the decree or order appealed from. The memorandum of appeal need not be accompanied by a copy of the judgment, decree or order appealed from, but such copies of the judgment decree or order must be filed before the date fixed for hearing.

38. Short notice matters. — All appeals under the Act shall classified and dealt with as short notice matters under the High Court Appellate Side Rules.

Criminal Appeals

39. Appeal against any order made under section 45-J. — (i) 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 —

(a) against the conviction on any ground of appeal which involves a matter of law only,

(b) with the leave of the Appellate Court or upon the certificate of the Judge who tried the case that it is a fit case for appeal, against the conviction on any ground of appeal which involves a matter of fact only, or a matter of mixed law and fact, or any other ground which appears to the Appellate Court to be a sufficient ground of appeal, and

(c) with the leave of the Appellate Court, against the sentence passed unless the sentence is one fixed by law.

(ii) The Liquidator may appeal to the High Court against any order of acquittal on any ground of appeal which involves a matter of law only.

40. Appeal to be disposed of by Division Bench. — An appeal under the preceding rule from the decision of a single Judge shall be heard and disposed of by a Division Court consisting of at least two Judges, other than the Judge whose decision is appealed from.

41. Period within which appeal to be filed. — An appeal under the last preceding rule shall be filed within 30 days from the date of the order appealed from.

42. Application for certificate. — An application to the Judge who tried the case for a certificate that it is a fit case for appeal shall ordinarily be made orally at the end of the trial, or for special reasons to be stated in the petition, by petition giving the grounds on which such certificate is sought and showing that the period of limitation for the appeal has not expired.

43. Contents of memorandum of appeal. — The memorandum of appeal shall be made in the form of a petition in writing giving the grounds of objection numbered consecutively, and the grounds upon which the leave, if any of the Appellate Court is sought. It shall also show that the appeal is within time, and shall be accompanied by a certified copy of the judgment and the sentence or order of the Court, and also of the certificate of the Judge who tried the case that it is a fit case for appeal, when such certificate has been given.

44. Paper-books. — (i) Appeal paper-books shall be typewritten, and the appellant shall supply five copies of the paper-book within four weeks from the date of admission of the appeal or within such time granted by the Court.

(ii) The appeal paper-book shall contain the following papers:—

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.
- (6) Order of the Appellate Court granting leave, if any.
- (7) Memorandum of appeal.
- (8) Order admitting the appeal.
- (9) Such other papers as may be deemed necessary by the Registrar.

PART II

Exhibit. — Within six weeks of the admission of appeal, except where the time has been extended by the Court, the appellant shall file two or more copies of the appeal paper-book as may be required by the Registrar in his Office, and shall also furnish two copies to the respondent.

45. Applicability of High Court, Appellate Side Rules. — Save as otherwise provided in these rules, the rules of the High Court, Appellate Side in respect of criminal appeals shall apply to criminal appeals under the Act.

46. Application for bail. — Application for bail shall ordinarily be made to the Appellate Court at the time of admission, provided that a copy of the application shall be served on the Prosecutor at least 48 hours before the motion for bail is made.

Miscellaneous

47. Section 5, Limitation Act applicable. — The provisions of section 5 of the Indian Limitation Act, shall apply to appeals—civil or criminal — under the Act.

48. Filing of appeals. — All appeals — civil or criminal — shall be filed in the Office of the Registrar and shall be accepted, if within time, and are otherwise in conformity with the rules.

49. Procedure regarding appeals which are beyond time. — When an appeal — civil or criminal — appears to the Office to be beyond time, it shall be returned to the party or his Advocate, unless it is accompanied by a separate application for excuse of delay or the party or his Advocate applies for it to be placed before the Court for orders.

50. Application for excusing delay. — An Application for excusing the delay in presenting the appeal shall be filed within a fortnight of such return. Such application shall be placed before the Court for orders as soon as practicable.

51. Removal of office objection. — All other office objections shall be removed by the party or his advocate within 14 days from the date of the service of the office objections.

52. Removal of office objection within specified time. — (i) Where any party is required under these rules to do anything in regard to an application, appeal or otherwise within a specified time and he fails to do so the Registrar may on sufficient cause shown, excuse any delay not exceeding one month.

(ii) Any delay exceeding one month shall be treated prima facie as failure to prosecute diligently, and the delay may be excused only by order of the Court.

53. Appeal not prosecuted diligently to be placed before Court. — Where an appellant, after the admission of an appeal, does not prosecute the appeal diligently, the appeal shall be placed before the Appellate Court for orders. The Appellate Court may dismiss the appeal or pass such orders as it may deem fit.

54. Applicability of Civil Procedure Code, Criminal Procedure Code and High Court Appellate Side Rules. — The provisions of the Code of Civil Procedure, the Code of Criminal Procedure and the High Court Appellate Side Rules, unless inconsistent with these rules, shall apply mutatis mutandis to civil and criminal proceedings or appeals under these rules.

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CHAPTER XXII

**APPEALS UNDER SECTION 116-A OF THE REPRESENTATION OF PEOPLE ACT,
XLIII OF 1951.**

Deleted.

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CHAPTER XXIII

PETITIONS UNDER THE INDIAN COMPANIES ACT, I OF 1956.

1. Presentation of applications for winding up. — All applications for winding up of a Company and other applications under the COMPANIES ACT, 1956 (ACT I OF 1956) and the BANKING REGULATION ACT, 1949, in respect of a Company having its Registered Office or in the case of a Company incorporated outside India, its principal place of business, outside the territorial limits of Greater Bombay, and in respect of which under section 10(1) of the COMPANIES ACT, 1956 the High Court has jurisdiction shall be filed on the Original Side of the High Court, Bombay provided however that in respect of the Districts of Akola, Amravati, Bhandara, Buldana, Chandrapur, Nagpur, Wardha and Yavatmal such applications shall be filed in the office of the High Court at Nagpur.

All applications for winding of a company and other applications under the INDIAN COMPANIES ACT, 1913 (ACT No. VII OF 1913) or under the COMPANIES ACT, 1956 (ACT No. 1 OF 1953) or the BANKING REGULATION ACT, 1949 which are pending on the File of the High Court Appellate side, Bombay on 1st June 1980 shall stand transferred to the Original Side of the High Court, Bombay and shall be disposed of as if they have been filed on the Original Side.

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CHAPTER XXIII-A

APPEALS UNDER COMPANIES ACT, 1956 (ACT I OF 1956)

Deleted as section 100 of the Indian Companies Act is repealed by Companies Tribunal (Abolition) Act, 1967 (India Act XVII of 1967) with effect from 1st July 1967.

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CHAPTER XXIV

APPEALS UNDER SECTION 72 OF THE COPYRIGHTS ACT, 1957

(ACT XIV OF 1957)

1. Division Bench to hear appeals under Copyrights Act. — All appeals under section 72 of the Copyrights Act shall be filed in the Office of the Registrar and shall be heard and disposed of by a Division Bench.

2. Rules re : regular appeals to apply to appeals under the Act. — The rules applicable to regular appeals shall, except in so far as they are inconsistent with the Rules in this Chapter, apply to appeals under section 72 of the Copyrights Act.

3. Appeals under the Act classified as short notice or expedited matters. — Appeals under section 72 of the Copyrights Act, 1957, shall for the purposes of the rules, be classified as short notice or expedited matters and dealt with accordingly.

4. Appellant to supply copies of paper-books for use of Court and respondents. — The appellant or his Advocate shall, within one month of the notification of the receipt of the record, or within such time not exceeding one month as the Registrar may allow, supply as many copies of the paper-book, which shall be in the form and with the contents specified below, as are necessary for the use of the Court and for being supplied to the respondents.

5. Arrangement of paper-book which should be neatly typed, paged and indexed. — The paper-book shall be neatly typed with a margin of two inches on uniform foolscap paper and shall be duly paged and indexed. It shall be properly bound in a handy volume or volumes. It shall contain transliterations or copies of the documents or papers which are in English, and translations in English of documents or papers in any other language, of the following papers or documents in the order mentioned below ;—

- (1) petition, complaint or application before the Board;
- (2) written-statement or petition of objection or reply as the case may be;
- (3) supplementary statements, further and better statements and particulars of claims, counter-statements to written-statements, replies, if any;
- (4) deposition of witnesses, if any;
- (5) copies of documents exhibited before the Board which have been referred to by the board in the decision under appeal;
- (6) copies of any document rejected by the Board where its rejection is a ground of appeal or cross-objection;
- (7) copy of the judgment, final decision or order of the Copyright Board,

(8) copies of any other documents on the record which the appellant wishes to refer or rely on at the hearing of his appeal;

(9) memorandum of appeal in the High Court.

¹[Provided that such translations would not be necessary if the documents are in Marathi and if the party or the Advocate undertakes that English translations would be supplied whenever an order is that respect is made by the Court in a particular proceedings.]

6. Appellant to supply bill of costs of paper-book. — The appellant shall, along with the paper-books, or within such time not exceeding one month as the Registrar may allow in that behalf, supply a statement showing truly and correctly the total number of folios computed at 100 words per folio in the paper-book and also the total number of folios of translations, if any, included in the paper-book and also submit his bill of costs in regard to the typing and translation charges computed at the rates prescribed for copies and translations in the rules applicable to regular appeals.

7. Respondent to supply his paper-book and bill of costs of paper-book. — The Office shall, as soon as the paper-books are received, supply the copies thereof to the respondent and the respondent shall, if he desires to rely upon any documents or papers which are not included in the paper-book supplied by the appellant, within 15 days from the receipt of such paper-book or within such time not exceeding 15 days as may be granted by the Registrar, supply his paper-book with the requisite number of copies thereof, containing the translations and transliterations, as the case may be, of the documents or papers on which he wishes to rely. The respondent shall also supply a statement as to the folios and the bill of costs in regard to the preparation of his paper-book to the Registrar in the same manner as prescribed for the appellant:

²[Provided that such translations would not be necessary if the documents are in Marathi and if the party or the Advocate undertakes that English translations would be supplied whenever an order is that respect is made by the Court in a particular proceedings.]

8. Costs of paper-books to be included in bills of costs. — The costs of the paper-books, on verification of the bills relating thereto supplied by the parties, be included in the bills of costs of the respective parties, provided that they have supplied statements of folios and their bills as prescribed in these rules.

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1. Added by Notification No. 3603/86, Dt. 6-8-1986.

2. Added by Notification No. 3603/86, Dt. 6-8-1986.

¹[CHAPTER XXIV-A

Tax Appeals

1. Institutions of Appeals - All appeals which are to be instituted under the provisions of-

- i) Section 260A of Income Tax Act, 1961,
- ii) Section 27A of the Wealth Tax Act, 1957,
- iii) Section 130 of the Customs Act, 1962,
- iv) Section 35G of the Central Excise Act, 1944,
- v) Section 83 in Chapter V of the Finance Act, 1994 (Service Tax) read with Section 35G of the Central Excise Act, 1944,
- vi) Section 27 of Maharashtra Value Added Tax, 2002,
- vii) Section 9(2) of the Central Sales Tax Act, 1956 read with Section 27 of the Maharashtra Value Added Tax, 2002.

Or

under any tax legislation other than which is referred to hereinabove or which is enacted or re-enacted or that may be enacted after the coming into operation of these Rules which provide for an appeal to the High Court from an order of the Tribunal under such legislation.

arising out of Kolhapur, Nashik, Pune, Raigad, Ratnagiri, Sindhudurg, Satara, Sangli, Solapur and Thane Districts shall be presented to the Prothonotary and Senior Master of High Court of Judicature at Bombay and the same shall be heard and disposed of by a Division Bench on the Original Side.

2. The Rules for filing such Direct and Indirect Tax Appeals on the Original Side will also apply *mutatis mutandis*, to all Tax Appeals arising from the aforesaid Districts.]

1. Inserted vide High Court Notification No. P. 3601/2014 dated 27th October, 2014 published in M.G.G., Extraordinary, Part IV-C dated 28th October, 2014.

CHAPTER XXV

REVISION APPLICATION UNDER SECTION 5(2) OF THE BOMBAY COURT-FEES ACT, 1959

1. Form and accompaniments of application for revision of Taxing Officer's decision. — An application for revision of the decision of the Taxing Officer under section 5(2) of the Bombay Court-fees Act, 1959, shall be addressed to the Honourable the Chief Justice and shall be accompanied by a typed copy of the decision sought to be revised.

2. Disposal of application. — Such application shall be placed before the Chief Justice or a Judge appointed by him under section 5(2) of the Bombay Court-fees Act, 1959 who may either reject it summarily or dispose it of on merits after issuing notice to the Government Pleader and such other person as he may deem fit.

3. Costs, to be in the discretion of Court. — The costs of all application under Rule 1 shall be in the discretion of the Court.

4. Special procedure in respect of revisions under the Court-fee Act. — Notwithstanding anything contained in any other rules—

(i) an application for revision of the decision of the Taxing Officer shall be treated as an expedited matter;

(ii) it shall be placed before the Chief Justice or the Judge appointed by him under section 5(2) of the Bombay Court-fees Act, 1959 immediately after it is Filed, with a note as to office objections, if any, for orders under Rule 2 above;

(iii) the date to be entered in the notice to be issued to the Government Pleader or any other person under Rule 2 above as the earliest possible date of hearing shall not be longer than 14 days from the service of such notice;

(iv) the matter shall be placed before the Court for hearing immediately after the expiry of the date of hearing mentioned in the notice issued under Rule 2 above, even though the persons, if any, other than the Government Pleader are not served with the notice issued under Rule 2 above; and

(v) the Court may hear and Finally dispose of the matter in the absence of the persons, if any, other than the Government Pleader to whom the notice was issued under Rule 2 above, or give further directions in regard to the service of the notice on such persons or pass such other orders or give such other directions as it deems proper.

* * * * *

CHAPTER XXVI

CRIMINAL BUSINESS

General

1. Rules re: Civil proceedings to apply mutatis mutandis to criminal proceedings. — The rules applicable to civil proceedings shall, except as otherwise provided in this Chapter, apply mutatis mutandis to criminal proceedings.

2. Proceedings to contain statement that no such proceeding had been filed before. — (i) Every appeal or application shall contain a statement that no appeal or application in the same matter has previously been filed. If the appellant or applicant state that an appeal or application has previously been made he shall also state how the said appeal or application has been disposed of and how the present appeal or application is competent.

(ii) If there was a cross-case or counter-case arising out of the same incident or incidents leading to the appeal or application the memo of appeal or application shall mention the number of that case in the trial Court.

3. Application for bail to be served on Government Pleader. — In every application for grant of bail, the applicant shall state whether or not he was granted bail pending inquiry or trial in the lower Court, and if such bail was granted, he shall set out in full the order granting bail. A copy of the application for grant of ball shall be served upon the Government Pleader in cases arising from the Greater Bombay area at least 24 hours before the application is heard by the Court and in cases from the mofussil 48 hours before such hearing.

Registers

4. Registers for classes of proceedings. — Separate registers for the following classes of cases shall be maintained:-

- (1) Appeals.
- (2) Revision Applications,
- (3) Confirmation Cases,
- (4) References,
- (5) Miscellaneous Applications, and
- (6) Applications under the Constitution.

¹[(7) Appeals to the High Court from Judgment or Order passed by the Family Courts under Chapter IX of Criminal Procedure Code, 1973.

Note : This classification is covered by the amended Entry No. xiii of Rule 10 of Chapter V of the Bombay High Court Appellate Side Rules, 1960 (Reprint 1981).]

¹ Added by Notification No.P.3604/90 Dt.27-11-1990.

5. Registration of proceedings. — Immediately on the presentation of any criminal proceeding in this Court by an Advocate, or party in person, or on receipt of the same through jail, or otherwise, it shall be entered in the appropriate register subject to office objections, if any. Entries in the registers shall be made serially according to the date of the presentation or receipt.

6. Joint appeal or application by persons affected by same Judgment — All persons aggrieved by a judgment or an order passed in a criminal case, may join in one appeal or application for revision and one copy of the judgment or order complained of shall be sufficient.

7. Examination of proceedings by Office. — Every appeal or application shall be examined by the Office as expeditiously as possible, and the examination shall be completed within six days from the date of filing, except in matters in which the sentence is six months or under, and in which the accused is in custody, when the examination should be completed not later than the day next after presentation or receipt of the appeal or application.

[**Note.** — Attention is invited to sub-section (1) of section 12 of the Limitation Act, 1963, which provides that in computing the period of limitation for an appeal or an application for leave to appeal or for revision or for a review of a judgment, the day on which the judgment complained of was pronounced and the time requisite for obtaining a copy of the sentence or order appealed from or sought to be revised or reviewed shall be excluded.

Where a party applies for a certified copy by post other than registered post, the date of its receipt by the office of the Court would be the date of the presentation of the application. Whenever such application is made by registered post, the same shall be pre-paid for acknowledgment and the date of posting of the letter would be the date of presentation of the application to the Court.]

8. Office to notify objections; and their removal by Advocates or appellants. — (i) When an appeal or an application (other than an appeal or an application from Jail) is incomplete or defective, the Office shall notwithstanding anything, contained in any other rules, affix on a special Notice Board a notice specifying the office objections. An entry of the date of the notification as above shall be made on the presentation form.

(ii) The Advocate or the appellant, or applicant concerned, as the case may be, shall remove all office objections within fourteen days from the date of the notification of the office objections us above, failing which the matter shall, without delay, be placed before the Court for orders.

9. Notification of receipt of record, — The receipt of the record of the lower Court shall be notified on the Board immediately.

10. Notice where property is returned to person not party to original proceeding. — The notice of appeal or of other proceeding shall also be given to a person in whose favour the Court below has made an order under section 250 or 357 or under section 451 of the Code of Criminal Procedure-

Provided that no case, in which the sentence awarded is one year or less and the accused is in jail, shall be kept back merely because the complainant or the person in whose favour the order has been passed is not served.

11. Procedure if any, notice cannot be served.— If the service of any notice cannot be effected within three months from the date of its receipt, the matter shall be placed before the Court with the relevant police report explaining why the notice could not be served. The Court may pass such orders as it deems fit.

Confirmation Cases

12. Procedure in regard to preparation of confirmation cases for hearing. — Immediately on receipt of the reference for confirmation of a Sentence of death, the Office shall issue notice to the District Magistrate where the reference is from the mofussil and to the Public Prosecutor, Greater Bombay. where the reference is from Greater Bombay. The Office shall also immediately make a requisition for printing, within three weeks ¹[45] copies of the paper-book including the memo of appeal, if any, by the condemned prisoner. The paper-books shall be printed in the form prescribed for paper-books by the Supreme Court.

Immediately after the receipt of the printed paper-books, an order shall be taken from the senior Judge sitting on the Bench hearing criminal appeals for placing the Confirmation Case on Board of hearing.

Notwithstanding anything contained in these rules, the Confirmation Case together with the Appeal, if any, shall be placed on the top of the Daily Board subject to a part-heard case, if any, as ordered by the senior Judge.

Two copies of the printed paper-book shall be supplied free of charge to the Government Pleader and one copy thereof shall be supplied free of charge to the Advocate appearing for the condemned prisoner. If the Government Pleader or the Advocate for the condemned prisoner required additional copies, each additional copy shall be paid for at the rate of 25 paise per page and Re.1 per plan or map and the amount payable shall be collected by means of Court-fee stamps affixed to the application for such copies.

Appeals and Applications

13. Accompaniments to appeals and applications, — Every appeal and application shall be accompanied by the certified copy of the judgment or order appealed or applied against, including where an application is against the appellate or revisional order of the Sessions Judge, by the certified copy of the judgment of the trial Court. When the order complained of is that of a Sessions Court having jurisdiction over more than one revenue district, the memorandum of the proceeding shall show the revenue district in which the memorandum of the proceeding shall show the revenue district in which the original proceeding was instituted

14. Deleted.

15. Deleted.

1. Substituted by Notification No.P.3601/92 Dt. 27-5-1992.

16. Supply of additional set of copies where proceedings are to be heard by Division or Full Bench. — In an appeal or application other than that received from jail, the appellant or the applicant or his Advocate shall file at the time of the presentation of the appeal or application an additional set of typed copies of the memorandum of appeal, judgment and any other annexures, in all cases where such appeal or application is required to be heard by a Division Court of two Judges. In case of a reference to a Full Bench of three or more Judges, the appellant or applicant shall supply the requisite number of copies for the use of the Full Bench.

17. Registrar may dispense with copies of Judgments in subsequent proceedings. — Where any appeal or application for revision preferred before the High Court is accompanied by requisite number of copies the Registrar may dispense with the copies of judgments in any subsequent appeal or application for revision presented by any party against the same judgment.

18. Supply of copy of record to Government Pleader and Advocate for accused in Certain Proceedings. — (i) In all appeals and proceedings other than confirmation cases, where paper-books are prepared, whether typed or printed, the Government Pleader shall be supplied with one copy of the paper-book free of charge.

(ii) In appeals (not being appeals against acquittals) and other proceedings (not involving a sentence of death) a typed or printed copy of the paper-book, as the case may be, shall be supplied, when available, to the accused or his advocate on payment at the rate of 4 paise per folio of 100 words of typed matter and 25 paise per page of printed matter and Re.1 per plan or map and the amount payable shall be collected by means of Court-fee stamps to be affixed to the application for the copy. In proceedings involving a sentence of death the accused or his advocate, and in cases in which an advocate is appointed to defend the accused at the cost of the State such advocate shall be supplied with a copy of the paper-book free of charge.

(iii) Notwithstanding anything contained in the preceding sub- rule the Court may where it thinks fit direct that the accused be supplied with a copy of the paper-book free of cost.

¹[In all Criminal Appeals arising out of a charge under section 302 of the Indian Penal Code, the Records and Proceedings should be obtained for Admission. Similarly, in all appeals against conviction under section 302 or 307 *ibid*, the weapon or weapons with which the offence is alleged to have been committed should be sent for immediately after such an appeal is admitted]

Appeals against acquittals

19. Procedure re-appeals against acquittals by Private parties. —(i)Every application for leave under section 378(3) should be a composite application giving necessary facts and circumstances of the case along with the grounds which may be urged in the appeal with a prayer to entertain the appeal. The appellant shall file along with application two typed copies of the composite application and the Judgment or Judgments of the Court concerned.

(ii)If the leave to appeal is granted, the composite application presented shall be entered in the register of appeals and numbered accordingly. The appellant shall forthwith supply the

1. Office Order No. Cri/3952/66, Dt. 15-11-1966.

requisite Court-fee stamps prescribed for the appeal. The Sessions Court shall be required to prepare five paper-books.

20. Notices in appeals against acquittals to District Magistrate and Public Prosecutor, and intimation by them whether accused is in jail. — When an appeal against an acquittal is admitted, notice shall be given to the District Magistrate, or in Greater Bombay, to the Public Prosecutor, who shall be required to inform the High Court whether the accused is in jail, and, if so, in what jail he is confined.

21. Free supply of paper-book to accused or his Advocate – In appeals against acquittals, a copy of the paper-book, whether typed or printed, shall be supplied free of costs to the Advocate for accused or to the accused if he is not represented by an Advocate. Additional copies, if required by such Advocate or accused, shall be charged at the rates mentioned in Rule 18.

22. Record in Government appeals against acquittals under section 302 to be Printed unless otherwise directed – (a) Unless the Court at the time of admission of the case directs that printing shall be dispensed with, the record of the case shall be printed -

(i) in appeal filed by Government against an order of acquittal under section 302 of the Indian Penal Code.

(ii) in appeal filed by Government against an order of acquittal in respect of an offence other than offence under section 302 of

(iii) in applications for revision filed by Government for enhancement of sentence passed in respect of an offence under section 302 of the Indian Penal Code.

(b) In such cases where the record is required to be printed, only one typed copy of the paper-book typed on one side of the paper shall be called for from the lower Court.

References under section 307, Criminal Procedure Code.

23. Deleted.

24. Deleted.

Special Procedure for Appeals and Application received from Jail

25. Accompaniments to jail appeals and applications – (i) All appeal and applications received from jail shall be accompanied by a copy of the register of petition duly filed in by the Jail Superintendent and certified copies of the Judgments and orders as prescribed for appeals and revisions under those rules.

(ii) No additional copies for the use of the Court or Division Bench shall be required to be supplied by the appellant or applicant from jail.

(iii) If the memorandum of appeal or petition is not in English, it shall be translated in the Translators' Office. Four typed copies of the translations shall be prepared in that Office:

¹[Provided that such translations would not be necessary if the documents are in Marathi and if the party or the Advocate undertakes that English translations would be supplied whenever an order in that respect is made by the Court in a particular proceeding.]

Special Procedure for Applications for transfer.

26. Procedure for transfer applications. — An application for transfer of a criminal case shall, as soon as it is presented, be placed before the Court for rule subject to office objections, if any. The party or his Advocate shall remove all office objections within a week from the date of the said office objections being notified on the Notice Board. If the party or his Advocate fails to remove the said office objections within the said time, the matter shall be placed before the Court which may in its discretion dismiss it for want of prosecution.

Boards

27. When a case becomes ready. — Subject to special orders of the Court, if any, a case shall not be considered as ready until the expiry of a week from the date of the notification of the record.

28. Cases to be set down for hearing on Mondays. — Criminal cases shall ordinarily be set down for hearing on Monday on which day they shall have precedence over other cases.

29. Preparation of Weekly Boards. — (1) Subject to special orders of the Court regarding special circulation, Weekly Boards of criminal cases ready for hearing in the following week shall be prepared and notified on every Wednesday.

(2) For the day-to-day hearing of cases Weekly Boards shall be prepared and notified on the last working day of the week preceding the week for which such boards are prepared. Such Boards shall consist of matters which have been notified under sub-rule (1). At the end of each working day matters disposed of by the Courts or Courts during the course of the day shall be struck off from such Boards.

(3) Notwithstanding anything contained in sub-rule (2) a week for the purposes of the Weekly Boards of hearing mentioned in the preceding sub- rule may commence on any day of the week as may be desired by the Court or as may be directed by the Chief Justice:

Provided that First 25 (or so many as may be directed by the Court concerned) of the matters put or left over on the Weekly Board of hearing at the commencement of each working day shall ordinarily (but not necessarily) be regarded as the quota of cases fixed for hearing on the day.

(4) Motions for urgent circulation shall be made either immediately after the Court assembles, or reassembles, as the case may be, for hearing in the forenoon or the afternoon, or

¹. Added by Notification No. 3603/86, Dt. 7-8-1986

just before the Court rises for the lunch interval. No such motion shall be made or permitted at any other time after 3 p.m. except under special circumstances and unless the party or the Advocate concerned satisfies the Court that he could not move the Court as required under the earlier part of this sub-rule or earlier than 3 p.m., as the case may be.

(5) The Sheristedars in charge of the respective Courts shall seek and obtain orders of the Court at 3.30 p.m. on every full working day and at 1 p.m. on Saturdays and half working days for discharging the board for the day and shall immediately convey the orders of the Court in this regard to the Board Department.

Preparation of Paper-Books, Translations, etc., in the High Court.

30. Preparation of Paper-Books, Translations, etc., in the High Court. — (1) Where paper-books in Criminal Appeals or other criminal proceedings are, or are required to be, prepared in the High Court, the procedure hereinafter indicated shall be followed :—

(i) The office shall prepare the requisite number of copies of the paper- book including therein all such papers as are normally included in the paper- books prepared in such matters in the Sessions Court. The translations and the typing work required for this purpose shall be done at the cost of the State :

¹[Provided that such translations would not be necessary if the documents are in Marathi and if the party or the Advocate undertakes that English translations would be supplied whenever an order in that respect is made by the Court in a particular proceeding.]

(ii) The typing shall be done neatly and legibly with double space left between consecutive lines; there shall be a two-inch margin, and every tenth line shall be numbered in the margin. There shall be prefixed to the paper-book an index which shall conform to the requirements given in the High Court Criminal Manual, 1960 in that behalf.

(iii) The paper-books thus prepared shall be supplied on payment of cost or supplied free of cost to the parties or the Government Pleader in accordance with the rules hereinbefore appearing.

(2) Applications for translations in Criminal Cases of documents not required to be included in the paper-books under the instructions given in the Criminal Manual in that behalf shall not be allowed without the order of the Court and unless such applications are made within a week of the notification of the receipt of the Record and the Proceedings and are accompanied by an undertaking to pay as soon as the translations are ready the charges for the same as per the rates provided for in sub-rule (i) of Rule 8 of Chapter IX, unless the accused is exempt from the payment of such charges under the provisions of the said rule.

31. Appointment of Advocate for undefended accused at Government cost. — (i) An Advocate shall be appointed at the cost of the State by the Deputy Registrar for an accused who is not represented by any Advocate in the following cases:—

1. Added by Notification No. 3603/86, Dt. 7-8-1986.

- (1) Confirmation cases;
- (2) Appeals against acquittals;
- (3) Proceedings involving a sentence of death;
- (4) Appeals from jail where a notice for enhancement of sentence has been issued.
- (5) Jail appeals where notice has been ordered to issue by the Court;
- (6) Applications from jail where a notice of enhancement has been issued;
- (7) Applications by the State or other proceedings for enhancement of sentence.
- ¹[(8) Criminal Writ Petition challenging the order of detention.]

Provided that in proceedings not involving a sentence of death no advocate shall be appointed at the cost of the State to defend the accused when he is not in jail unless the District Magistrate in the mofussil or the Chief Metropolitan Magistrate in Greater Bombay reports that the accused is not financially in a position to engage an advocate at his own cost or fails to make any report before the proceeding is notified for hearing.

(ii) Notwithstanding anything contained in the above sub-rule the Court may order that an advocate be appointed in any matter at the cost of the State to defend an undefended accused, if the ends of justice so require.

(iii) The appointment of an advocate under sub-rule (i) above shall be made in good time to enable him to be ready for conducting the case, and as far as possible, on Wednesday preceding the week for which the case is notified for hearing. If the accused afterwards appoints an advocate or counsel of his own choice the advocate appointed by the Deputy Registrar shall be allowed his fee for the case. In such a case the paper-book supplied to the advocate appointed by the Deputy Registrar shall be made available to the advocate or the Counsel appointed by the accused, but not without the payment of charges prescribed under rule 18 above.

32. Advocate's fees when Appointed at State cost. — (i) The fees of the advocate appointed at the cost of the State to defend an accused shall be on such scale as the Government may from time to time prescribe.

²[(ii) ³[(a)] The fees of the advocate appointed at the cost of the State in petition challenging order of detention shall be Rs.300 and in case the effective hours of hearing exceed five hours, then additional amount of Rs.30 per hour shall be payable subject to maximum of Rs.450.]

1. Inserted by Notification No. 1301/86, Dt. 26-5-1992.

2. Inserted by Notification No. P. 1301/86, Dt. 26-5-1992.

3. Added by Notification No. P. 1301/86, Dt. 29-7-1995.

¹[(ii)(b) In other Criminal Writ Petitions except detention matters challenging any order or decision the fees of the Advocates appointed by the High Court as amicus curiae at the cost of the State shall be maximum Rs.450.]

33. Registrar's powers to enhance fees. — The Registrar may increase fees payable in a case up to Rs.50 having regard to the complicated nature, heavy labour and time involved in the case.

Production in Court of Accused in Jail Custody.

34. Production of accused in jail at the hearing if he so desires. — If an accused who is in jail desires to remain present in Court at the time his case is heard, the Deputy Registrar should obtain from the Court an order under the Prisoner's (Attendance in Court) Act, 1955, to the officer in charge of the jail for the production of the accused at the hearing of the case in the following cases:—

- (1) Appeals against acquittals;
- (2) Cases in which notice of enhancement of sentence has been issued;
- (3) Revision application under section 397 of the Criminal Procedure Code;
- (4) Cases where the Court considers the presence of the accused desirable or necessary.

Payment of Road and Diet Money, etc. to Accused and Witnesses.

35. Payment of expenses to accused acquitted or discharged. — The Registrar may give to any person produced in custody before the Court and acquitted and discharged or set at liberty by this Court, the money for his railway fare, steamer fare or bus fare and daily expenses, from the grant under the head "Road and Diet Charges":

Provided—

(a) that the amount given on account of daily expenses shall not exceed the rate of Rs.²[25] a day for the number of days which in the opinion of the Registrar will necessarily be occupied in such journey;

(b) that the amount of Railway fare, Steamer fare or Bus fare shall be of the lowest class.

Note— The Registrar may delegate the powers under this rule to the Deputy Registrar.

36. Travelling and daily allowances to witnesses. — Any person summoned as a witness in any case in the High Court shall be paid Travelling and Daily Allowance on the same scale as is prescribed in the rules in the Criminal Manual.

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1. Added by Notification No. P. 1301/86, Dt. 29-7-1995.

2. Substituted by Notification in Gazette, Dt. 24-11-1994, Pt- 4-C, Pg. 852.

CHAPTER XXVII

RULES UNDER SECTION 477(1)(d) READ WITH SECTION 96 OF THE CODE OF CRIMINAL PROCEDURE, 1973

1. How applications under section 96, Code of Criminal Procedure to be made. — Every application to the High Court under sub-section (1) of section 96 of the Code of Criminal Procedure, 1973 (hereinafter referred to as "the said Code") to set aside the declaration of forfeiture in respect of any newspaper, book or other document made under section 95 of the Code, shall be made by the presentation of a petition which shall be signed by the applicant and verified at the foot by an affidavit of the applicant.

2. How petition to be written. — The petition shall be written in the English language on foolscap paper or other paper similar to it in size quality, book-wise, and divided into paragraphs number consecutively. All dates and sums occurring in the petition shall be expressed in figures.

3. How petition to be headed and instituted. — The petition shall be headed "In the High Court of Judicature at Bombay, Appellate Jurisdiction "and shall be instituted. "In the matter of the (Name or description) newspaper, book or other document", as the case may be.

4. What petition should state and what exhibits should be annexed to it. — The petition shall state what the interest of the applicant is in the property in respect of which the declaration of forfeiture has been made and all documents and copies thereof in proof of such interest together with the copy of the declaration of forfeiture under section 95 of the Code shall be annexed as exhibits to the petition.

5. What petition should also state. — The petition shall state the grounds on which it is sought to set aside the declaration of forfeiture.

6. What documents are to be translated into English and by whom, — All documents in the regional language annexed to the petition as exhibits and all documents in the regional language relied upon by the applicant and intended to be in evidence, shall be translated into English by an Official Translator or Translators, so that no question may arise as to the accuracy of the translation or the admissibility in evidence of the documents and the translations annexed to them by reason of any defects in the translations thereof.

¹[Provided that such translations would not be necessary if the documents are in Marathi and if the party or the Advocate undertakes that English translations would be supplied whenever an order in that respect is made by the Court in a particular proceeding.]

7. Petition should be presented to the Chief Justice. — The petition with exhibits annexed thereto and the translations thereof, if any, together with a copy of such petition and exhibits with

1. Added by Notification No. P. 3603/86, Dt. 6-8-1986.

the translations shall be presented to the Chief Justice, who will constitute a Special Bench and appoint a day for the hearing and determination of the application.

¹[Provided that such translations would not be necessary if the documents are in Marathi and if the party or the Advocate undertakes that English translations would be supplied whenever an order in that respect is made by the Court in a particular proceeding,]

8. Notice of hearing. — A notice in writing of the day appointed for the hearing and determination of the application shall be given by the Registrar to the Secretary to the Government of Maharashtra in the Home Department, and the copy of the petition and exhibits with translations, if any, mentioned in rule 7, shall accompany such notice.

9. How printed paper-books to be prepared. — Printed paper-books containing the petition and all exhibits annexed thereto with the translations thereof shall be prepared in the manner prescribed by the rules for the preparation of paper-books, in appeals from the High Court, and shall be delivered to the Registrar, by the applicant, at least one week before the day fixed for the hearing and determination of the application.

10. Number of paper-books to be printed. — There shall ordinarily be printed 15 copies of the paper-books; but the Registrar may, when necessary, direct a larger number of copies to be printed.

11. How costs of petition to be taxed. — The table of fees now in force in the High Court in its Original Civil Jurisdiction shall be applicable to the applications under sub-section (1) of section 96 of the Code and proceedings thereon and costs payable in respect of such applications and proceedings shall be taxed when so directed on that scale.

12. What provision and rules are applicable to execution orders on applications. — The provisions of the Code and the rules and forms of the High Court relating to execution of decrees and orders, shall be applicable to the execution of orders passed by the High Court on applications under sub-section (1) of section 96 of the Code."

* * * *

1. Added by Notification No. P. 3603/86, Dt. 6-8-1986.

CHAPTER XXVIII

RULES FOR THE ISSUE OF WRITS OR ORDERS IN THE NATURE OF WRITS OF HABEAS CORPUS UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA

1. Applications for writs of Habeas Corpus under Article 226. — All applications for writs or orders in the nature of writs of Habeas Corpus under Article 226 of the Constitution of India shall be made to the Division Bench taking criminal business of the Appellate Side of the High Court duly verified by oath or affidavit setting forth the circumstances under which the writ or order is sought.

2. Rule nisi on prima facie case. — If such Court is of opinion that a *prima facie* for granting the application is made out, a rule *nisi* shall be issued calling upon the person or persons against whom the order is sought to appear on a day to be named therein to show cause why such order should not be made and at the same time, if the Court so directs, to produce in Court the body of the person or persons alleged to be illegally or improperly detained then and there to be dealt with according to law:

Provided that a Single Judge may grant a rule *nisi* if the conditions specified above are fulfilled; but he shall not pass any final order on the application.

3. Order on hearing of rule. — On the return day of such rule, or on any day to which the hearing thereof may be adjourned, if no cause is shown, or if cause is shown and disallowed, the Court shall pass an order that the person or persons improperly detained shall be set at liberty or delivered to the person entitled to their custody, If cause is allowed, the rule shall be discharged.

4. Service of writs. — Where the place of detention is known the High Court writ shall be served upon the jailor with a copy to the detaining authority. Where the place of detention is not known, the writ should be served upon the detaining authority. But an attempt should be made by the Office to find out where the place of detention is; and if the place is ascertained, then a copy of the writ shall be served upon jailor.

As far as possible, writs in Bombay should be served personally.

5. Costs of rule in discretion of Court. — In disposing of any such rule, the Court may, in its discretion, make an order for the payment by one side or the other of the costs of the rule.

6. Procedure as to evidence to be recorded. — The Court may, if necessary, direct a Court of Session or a Magistrate to take evidence as provided in section 391 of the Criminal Procedure Code.

7. Procedure in case of difference of opinion. — In case of difference of opinion between the Judges composing the Division Court, the procedure laid down in section 392 of the Code of Criminal Procedure shall be followed.

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CHAPTER XXIX

APPEALS TO THE SUPREME COURT

Deleted. – (The rules have been published in the “Bombay Government Gazette” Part IV-C, dated the 4th February 1960, at pages 294 to 315 and amended by High Court Notification, No.P.3604/65, dated the 8th March 1965, published in the “Maharashtra Government Gazette”, Part IV-C, at page 356).

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CHAPTER XXIX-A

APPEALS TO THE SUPREME COURT

(Under Supreme Court Rules, 1966)

(A) Civil Appeals on the Certificate of the High Court

1. (i) Application for Certificate. — Whosoever desires to appeal to the Supreme Court shall apply by petition to the Court for a Certificate granting Leave to Appeal to the Supreme Court.

(ii) Oral Application for Certificate may be made immediately after the pronouncement of Judgment. — Notwithstanding anything contained in sub-rule (i) a party desiring to appeal to the Supreme Court may apply orally for such a certificate immediately after the pronouncement of the judgment by the Court and the Court may grant or refuse the same to the party on such oral application or direct the party to file a petition as required by sub-rule (i) :

Provided, however, that if an oral application for Certificate for Leave to Appeal under sub-rule (ii) is made and rejected, no written petition under sub-rule (i) shall lie.

(iii) Form of Petition. — Petitions praying for a Certificate for Leave to Appeal to the Supreme Court shall be presented in Form No. 1 of Schedule A appended to this Chapter and shall specify in the heading the names of the actual parties to the appeal at the time of the presentation of the petition, tracing their relation to the original parties to the dispute, where the parties to the appeal have been placed on the record as representatives in interest of such original parties, or explaining in what capacity they have come on the record of the Appeal.

(iv) Addresses of parties. — Full particulars of addresses of the parties shall be furnished at the time of the filing of the petition.

(v) Accompaniments to the petition. — Every petition shall be accompanied by two spare typed copies of the petition and of the judgment for the use of the Court where the judgment has been pronounced by this Court.

2. Notice of Rule and its service. — If the Court grants Rule upon the petition, the Registrar shall issue a notice in Form No. II of Schedule A appended to this Chapter on payment of prescribed fee calling upon the opposite party to show cause, within a period of time after the service of the notice to be prescribed by the Registrar, why the certificate as prayed for should not be granted.

3. Registrar to investigate causes of delay if parties are not served within two months. — If the parties concerned are not served within two months of the date on which the Rule is granted, the Registrar shall personally investigate the causes of the delay and take all possible steps to expedite the service and if necessary, submit the case to the Court for directions.

4. Form of Certificate. — Upon the Court making the Rule absolute the office shall issue a certificate in Form No. III of Schedule A appended to this Chapter.

5. Procedure for consolidation of appeals. — No application for consolidation of appeals will be entertained by this Court. The parties desiring consolidation of appeals shall be required to move the Supreme Court for an order in that behalf under Rule 5 of Order XLVII of the Supreme Court Rules, 1966.

6. Procedure for amending record after certificate is granted. — An application for amendment of the record of the appeal by adding or substituting parties will not be entertained by this Court after the date of the order granting the certificate. The parties desiring such amendment shall be required to move the Supreme Court in that behalf.

7. Service of Notice in certain cases upon Advocates. — When a party has been represented at the hearing of the appeal by an Advocate unless the Vakalatnama of such Advocate has been cancelled with the sanction of the Court, such Advocate shall accept service of the notice in the following cases, and the service of notice in such cases on the advocate shall be deemed sufficient notice:—

- (a) Notice of Rule issued under rule 2 of this Chapter;
- (b) Notice of lodgment of petition of appeal under rules;
- (c) Notice for inspecting the record and filing the list of documents under rule 10;
- (d) Notice for making deposit for the costs of transmission of the original record, or the preparation of the transcript of the record in English and its transmission, or for the preparation and transmission of the printed or cyclostyled transcript of the record;
- (e) Notice of the transmission of the transcript of the record to the Supreme Court;

Provided that where the notice has been served on an Advocate under the above provisions the Appellant's Advocate shall in addition to the Bhatta to be paid under the rules deposit with the Nazir at the time of paying the Bhatta an amount calculated at Rs.4 for each opponent who can be so served to meet the costs of the Advocate concerned for communicating the notice to his client. The Registrar may order the costs reasonably incurred by the Advocate to be paid out of such deposit and may also call upon the appellant's Advocate to make good the deficit, if such costs exceed Rs.4 or may return the balance, if any:

Provided also that, if the Advocate served with the notice is unable to communicate it to the party concerned, he shall inform the Registrar who may thereupon either order the notice to be served by registered post or through a Court or, if necessary, obtain directions of the Court.

8. Action to be taken on receipt of the copy of petition of appeal from the Supreme Court. — On receipt from the Supreme Court of the copy of the petition of appeal, the Registrar, shall,

(i) cause notice of the lodgment of the petition of appeal to be served on the respondent personally or in the manner provided under rule 7 above in Form No. IV of Schedule A appended to this Chapter;

(ii) unless otherwise ordered by the Supreme Court transmit or cause to be transmitted to that Court at the expense of the appellant the original record of the case including the record of the Courts below; and

(iii) as soon as notice as aforesaid is served, send a certificate to the Supreme Court as to the date or dates on which the said notice was served on the respondent or respondents in Form No. V of Schedule A appended to this Chapter.

9. (i) Procedure where proceedings in Courts below were had in English, — Where proceedings from which the appeal arises were had in Courts below in English, the Registrar shall, as soon as a copy of the petition of appeal is received from the Supreme Court, call upon the appellant (vide form No. VI Schedule A) to deposit in this Court the necessary amount to cover the costs of the transmission of the original record of the case including the record of Courts below to the Supreme Court. Upon the appellant's depositing the amount, if the record of the Courts below is in the High Court, the Registrar shall forward to the Supreme Court the same along with the record of the case in the High Court, If the record of the Courts below is not in the High Court the Registrar shall direct the Courts below to transmit the records of the case in those Courts direct to the Supreme Court under the intimation to this Court and to inform this Court of the expenses incurred by them for such transmission. The Registrar shall also forward to the Supreme Court the record of the case so far as it pertains to the appeal in the High Court.

(ii) Balance to be refunded. — The balance of the deposit, after meeting the costs of the transmission of the record by the Courts below as well as this Court shall be refunded to the appellant.

(iii) Default to be reported to Supreme Court. — Any default on the part of the appellant to deposit the amount to cover the costs of the transmission of the record as above shall be reported to the Supreme Court for orders.

10. (i) Procedure where proceedings in Courts below were held in a language other than English.— Where the proceedings from which the appeal arises were had in Courts below in a language other than English, the Registrar shall, as soon as a copy of the petition of appeal is received from the Supreme Court, secure the record and proceedings of the case from the Courts below, if the same are not already in the High Court and as soon as the same are received in the High Court, shall issue notice to the parties calling upon them to inspect the record and proceedings of the case, if they so desire.

(ii) Contents of notice to appellant. — The notice to the appellant under sub-rule (i) above shall also call upon the appellant to file, within four weeks of the service upon him of the said notice, a list of documents which he proposes to include in the paper-book, after serving a copy thereof on each of the respondents. The appellant shall produce an acknowledgement in writing from each of the respondents that a copy of the list has been served on him.

(iii) Contents of notice to respondent. — The notice to the respondent under sub-rule (i) above shall also intimate to him the fact that a notice has already been issued to the appellant for filing the list of documents, and requiring him (the respondent) to file, within three weeks from the service of a copy of the list on him by the appellant, a list of such additional documents as he desires to be included in the paper-book.

(iv) Default to be reported to the Supreme Court. — Any default by the appellant to file the list as required and within the time prescribed shall be reported to the Supreme Court for orders.

(v) Forms of notices to appellant and respondent. — Notices to the appellant and the respondent under this rule shall respectively be in Form Nos. VII and VIII of Schedule A appended to this Chapter.

11. Setting of Index. — After the expiry of the time fixed for the filing of the list of additional documents by the respondent, the Registrar shall fix a day for the settlement of the list (hereinafter referred to as the Index) of documents to be included in the transcript of the record of the appeal and shall notify, the same on the notice board of the Court. No separate notices will be issued to the parties or their Advocates. In settling the index, the Registrar as well as the parties concerned shall endeavour to exclude from the record all documents that are not relevant to the subject-matter of the appeal and generally to reduce the bulk of the record as far as practicable.

12, Procedure where respondent objects to inclusion of documents. — Where the respondent objects to the inclusion of a document on the ground that it is not necessary or is irrelevant and the appellant nevertheless insists upon its inclusion, the transcript of the record as finally prepared shall, with a view to subsequent adjustment of costs of or incidental to the printing of the said document, indicate in the index of the paper-book or otherwise the fact that the respondent has objected to the inclusion of the document and that it has been included at the expense of the appellant.

13. Procedure where appellant objects to inclusion of document. — Where the appellant objects to the inclusion of a document on the ground that it is not necessary or is irrelevant and the respondent nevertheless insists upon its inclusion, the Registrar, if he is of the opinion that the document is not relevant, may direct that the said document be included separately at the expenses of the respondent and require the respondent to deposit within such time as he may prescribe the necessary charges therefor. If the amount so deposited is found insufficient, the Registrar may call upon (vide Form No. VI, Schedule A) the respondent to deposit additional amount or amounts within such further time as he may deem necessary. The question of the costs thereof will be dealt with by the Supreme Court at the time of the determination of the appeal.

14. Estimate of costs of the preparation of the transcript of record, etc. — As soon as the index of the record is settled the Registrar shall cause an estimate of the costs of the preparation of the transcript of the record (and of printing or cyclostyling the record, where it is required to be printed or cyclostyled) to be prepared and served on the appellant and Shall require him (vide Form No. VI, Schedule A) to deposit within 30 days of such service the said amount. Such costs

shall include the costs of translations, if any. The appellant may deposit the said amount in lump sum or in such installments as the Registrar may prescribe.

15. Where record is printed for High Court appeal, no fresh transcript necessary, — Where the record has been printed for the purpose of the appeal before the High Court and sufficient number of copies of the said printed record is available, no fresh transcript of the record shall be necessary except of such additional papers as may be required.

16. Registrar may call for additional deposit if deposit made is insufficient. — If at any time during the preparation of the transcript-of the record (or of printing or cyclostyling the record, where it is-required-to be printed, or cyclostyled) the amount deposited is found insufficient, the Registrar shall call upon the appellant (vide Form No. VI, Schedule A) to deposit such further sum as may be necessary within such further time as may be deemed fit, but not exceeding 28 days in the aggregate.

17. Procedure on appellant making default in making deposit -Where the appellant fails to make the required deposit, the preparation of the transcript of the record (and the printing or the cyclostyling of the record, where the same is required to be printed or cyclostyled) shall be suspended and the Registrar shall not proceed therewith without an order in this behalf of this Court; the Court may give such accommodation in the matter of time for making the deposit as it deems proper and if the appellant continues the default in spite of the orders of this Court, the Registrar shall obtain an order from the Court for reporting the default to the Supreme Court and report accordingly.

¹**[18. Transcript of the record to be transmitted to Supreme Court within six months. — (i)** The Registrar shall within six months, from the date of the service on respondent of the notice of the petition of appeal, transmit to the Supreme Court in triplicate a transcript in English of the record proper of the appeal to be laid before the Supreme Court, one copy of which shall be duly authenticated by appending a certificate to the same under the seal of this High Court and his signature. If for any reason the same cannot be transmitted within the period of six months mentioned above, the Registrar shall report the facts to the Supreme Court and obtain necessary extension of time for transmitting the same.

(ii) Where the record has been printed for the purpose of Appeal before the High Court and the record is in English, ten extra printed copies shall be transmitted to the Supreme Court along with the record.

(iii) Certificate of expenses to be appended to the transcript or forwarded separately. — The Registrar shall also append to the transcript of the record or separately forward a certificate showing the amount of expenses incurred by the parties concerned for the preparation and the transmission of the transcript of the record].

19. Form of notice of transmission of the transcript to the parties. — When the record has been made ready, the Registrar shall certify the same and give notice to the parties of the certification and the transmission of the transcript of the record (or of the printed or eye lo sty led

¹ Substituted by Notification No. P 3601/92, Dt. 27-5-1992.

record, where it is required to be printed or cyclostyled) in Form No. IX of Schedule A appended to this Chapter, and thereafter shall send a certificate to the Supreme Court as to the date or dates on which the notice has been served on the parties in Form No. X of Schedule A appended to this Chapter.

20. (i) Record not to be printed unless ordered by the Supreme Court. — Unless the Supreme Court so directs the record shall not be printed or cyclostyled in this Court.

(ii) Rules regarding printing and cyclostyling. — Where the Supreme Court directs that the record be printed or cyclostyled in this Court the same shall be printed or cyclostyled in accordance with the rules in Schedule 'B' appended to this Chapter.

(iii) Record may be cyclostyled if consisting of less than 200 pages. — Where the appeal paper-book is not likely to consist of more than 200 pages, the Registrar may, instead of having the record printed, have it cyclostyled.

(iv) Rules 7 to 19 to apply mutatis mutandis to printing and cyclostyling. — Where the record is printed or cyclostyled in this Court the provisions contained in Rules Nos. 7 to 19 above (both inclusive) shall apply *mutatis mutandis* to the printing and cyclostyling of the record.

(v) Number of copies for the use of the Supreme Court. — Unless otherwise directed by the Supreme Court, at least 20 copies of the record shall be prepared for the use of the Supreme Court.

(vi) Number of copies for the parties. — Unless a party informs its requirements before the printing or the cyclostyling is undertaken, each party shall be entitled to three copies of the record for its use.

21. (i) Rate of fees for preparation of the transcript of the record and printing and cyclostyling of record. — For preparing the transcript of the record (and for printing or cyclostyling the record, where it is required to be printed or cyclostyled) fees shall be charged at the following rates :—

(1) Preparation of Index	50 paise per page
(2) Copying of documents for the preparation of the transcript of the record.	25 paise per folio of 100 words (for 4 copies)
(3) Comparing copies of documents for the preparation of the transcript of the record.	5 paise per folio of 100 words.
(4) Writing head Notes to documents in the transcript of the record.	10 paise for each head note.

(5) Examination of the proofs where the record is required to be printed or cyclostyled.	25 paise for every printed or cyclostyled page.
(6) Certifying of the transcript of the record or of the printed or cyclostyled record by the Registrar.	Re.1 for every 10 pages of fraction thereof.
(7) Printing or cyclostyling.	As per bill received from the printing press or the cyclostyling agency as per rates to be determined by the office from time to time.

(ii) Manner of appropriating the fees. — Fees recovered as above under items (1) to (6) of sub-rule (i) above shall be credited to Government;

Provided that the Registrar may direct the party or his Advocate to supply copies of documents required for the preparation of the transcript of the record; and

Provided further that where such copies are supplied by the Advocate the charges for the same at the rate prescribed as item (2) of sub-rule (i) above shall be paid to him out of the deposit made for the preparation of the transcript of the record, and where such copies are supplied by the party himself he shall not be charged for the same, and in respect of copies so supplied by the Advocate or the party only comparing charges at the rates prescribed at item (3) of sub-rule(i) above shall be recovered and credited to Government.

(iii) Fees recovered under item No. (7) of sub-rule (i) above, unless the printing is done by the Government Printing Press, shall be paid to the Printing Press or cyclostyling agency which does the work and when the printing is done by the Government Printing Press, the same shall be credited to Government.

22. (i) Translations to be made by Chief Translator's Office or Special Translators. — Translations required for the transcript of the record shall be made by the office of the Chief Translator or by such other person (hereinafter referred to as special Translators) as the Chief Justice may specially appoint from time to time in that behalf.

(ii) Fees for estimating translation charges. — A fee of Rs.16/- shall be charged for estimating the translation charges.

(iii) Estimate may be called from the Chief Translator. — If, after having due regard to the amount of deposit made under rule 14 above and the number of documents to be translated for the purpose of inclusion in the transcript of the record, the office of the Registrar deems it necessary to obtain an estimate of the translation charges prior to the actual entrusting of the work of translation, the Chief Translator shall certify the necessary estimate within one week from the date the documents to be translated are sent to him for estimate.

23. Procedure where translations are made for High Court appeal. — Any part of the record which may have been officially translated for the purposes of the hearing in the High Court shall not be translated over again.

24. Where depositions of witnesses are to be translated. — The deposition of witnesses in the original languages shall not be translated in cases in which the notes of the substance of the depositions are taken in English by the Courts below, unless any one of the parties desires and shows sufficient cause to the Registrar that particular depositions should be translated and the Registrar orders that they should be translated.

25. Procedure where parties disagree in regard to translations. — The parties shall be invited from time to time to inspect the translations, and in case of disagreement, the points in dispute, which must be stated in writing, shall be submitted within one week to the Chief Translator for his decision, and the Chief Translator after perusal of the same shall decide the point in dispute. The writings submitted by the parties mentioning the points in dispute with the decision of the Chief Translator noted thereunder shall be forwarded by the Chief Translator to this Office along with the translations and the same shall be filed with the record of the case in this Office.

26. (i) Rate of fees for translation) etc. — A fee of Re.1 for translations and an additional fee of 65 paise for examination and authentication per folio of 100 words shall be levied.

(ii) Who should examine and authenticate. — The examination and authentication in the case of the translation done by the Office of the Chief Translator shall be done by the Chief Translator, and the examination and authentication in the case of the translations done by the Special Translators shall be done by the Special Translator concerned.

(iii) Manner of appropriation of translation fees etc. — The fees for translation, examination and authentication, except when the translation is done by Special Translators, shall be credited to Government, and where such translations are done by Special Translators the same shall be paid to them.

(iv) Number of copies of translations to be supplied by the Chief Translator or the Special Translator. — The Chief Translator's office or the Special Translators, as the case may be shall supply five typed copies of the translations for the fee of Re. I per folio of 100 words as provided above. Typing shall be done neatly and legibly with double space left between consecutive lines. There shall be a margin of 5 cms. and every 10th line shall be numbered in the margin. The translations shall on no account be delayed by the office of the Chief Translator or by the Special Translators.

(B) Civil Appeals by Special Leave of the Supreme Court.

27. Rules 5 to 26 to apply mutatis mutandis. — The provisions of Rules 5 to 26 above (both inclusive) shall apply mutatis mutandis to Civil Appeals by Special Leave to the Supreme Court.

(C) Criminal Appeals on the Certificate of the High Court.

28 (i) Application for certificate. — Whosoever desires to appeal to the Supreme Court shall apply by petition a certificate granting leave to appeal to the Supreme Court.

(ii) Oral application for certificate may be made immediately after the pronouncement of judgment.—Notwithstanding anything contained in sub-rule (i) a party desiring to appeal to the Supreme Court may apply orally for such certificate immediately after the pronouncement of the judgment by the Court and the Court may grant or refuse the same to the party on such oral application or direct the party to file a petition as required by sub-rule (i):

Provided, however, that if an oral application for leave to appeal under sub-rule (ii) is made and rejected, no written petition under sub-rule (i) shall lie.

(iii) Form of petition. — The petition praying for a certificate for leave to appeal to the Supreme Court shall be presented in Form No, XI of Schedule A appended to this Chapter.

(iv) Accompaniments to the petition. — Every petition shall be accompanied by two spare tagged copies of the petition and of the judgment for use of the Court where the judgment has been pronounced by this Court.

29. Notice of rule. — If the Court grants rule upon the petition, the Registrar shall issue a notice in Form No. II of Schedule A appended to this Chapter to the District Magistrate concerned in cases arising from the mofussils and to the Public Prosecutor in cases arising from Greater Bombay, if the petition is by an accused person, arising from and to the accused person or persons, if the petition is by the State, to show cause, within a period of time after the service of the notice to be prescribed by the Registrar, why the certificate as prayed for should not be granted.

30. Form of certificate. — Upon the Court making the Rule absolute the office shall issue a certificate in Form No. III of Schedule A appended to this Chapter.

31. Cost of preparation, transmission etc. of the transcript record. — Except as otherwise ordered by the Supreme Court, the preparation of the transcript of the record (and of the printed or the cyclostyled record, where the same is required to be printed or cyclostyled) and the transmission thereof shall be at the expense of the appellant.

32. Where record is printed for High Court and six copies of such Printed record are available. — In all cases where the record has been printed for the purposes of the appeal before the High Court or of other proceedings and where at least six such printed copies of the record are available, all available copies of the printed record except one shall be despatched to the Supreme Court along with the entire original record including the record of the Courts below. One of such copies shall be duly authenticated by the Registrar.

Explanation. — For the purposes of this Rule the original record shall not include judgments of the High Court and the Courts below but only duly authenticated copies, thereof, and printed record shall include cyclostyled or typed record.

33. Where two copies of High Court Paper-book are available. — Two copies of the High Court paper-book if available for despatch to the Supreme Court shall be treated as the transcript of the record. In that event only such of the additional document as the parties choose to include for the hearing of the appeal in the Supreme Court shall be typed in duplicate and transmitted to the Supreme Court along with the High Court Paper-book, one copy of each of which shall be duly authenticated.

34. Documents translated for High Court appeal need not be translated again. — For the purposes of the transcript of the record such of the documents in vernacular as have already been translated for the purposes of the High Court Appeal and which are included in the High Court Appeal Paper-Book need not be translated again.

35. Procedure in case of default by the appellant. — Where the appellant fails to take necessary steps to have the transcript of the record prepared and transmitted to the Supreme Court with due diligence, the Registrar shall report the default to the Registrar of the Supreme Court for order.

36. Number of copies to be printed or cyclostyled where record is required to be printed or cyclostyled. — In the event of the Supreme Court directing this Court to print or cyclostyle the record under the supervision of the Registrar of this Court, the Registrar of this Court shall despatch to the Registrar of the Supreme Court, not less than 15 copies where the appeal raises a question as to the interpretation of the Constitution, and not less than 10 copies in other cases.

37. (i) Special time-limit for preparation and transmission of record in cases involving sentence of death. — In all cases involving a sentence of death the printed or the cyclostyled record shall be made ready and despatched to the Supreme Court within a period of 60 days after the receipt of the intimation from the Registrar of the Supreme Court of the filing of the petition of appeal or of the order granting special leave to appeal.

(ii) In cases where such record cannot be despatched within 60 days as stated in sub-rule (i), the Registrar shall explain the circumstances under which it cannot be so despatched and obtain extension of time from the Supreme Court.

38. Rules 5 to 26 to apply mutatis mutandis. — Except as otherwise provided in Rules 28 to 37 above (both inclusive) the provisions of Rules 5 to 26 shall apply mutatis mutandis to Criminal Appeals on the Certificate issued by the High Court.

(D) Criminal Appeals by the Special Leave of the Supreme Court.

39. Petitioner intending to apply for special leave to be supplied copy of judgment or order free of cost.—On application by the petitioner intending to apply for special leave of the Supreme Court in criminal proceedings and appeals, a certified copy of 'the judgment or order sought to be appealed from shall be supplied to him free of cost.

40. Procedure on receipt of order granting special leave. — On receipt of the order granting special leave to appeal to the Supreme Court, the Registrar shall require the office to take necessary steps to have the record of the case transmitted to the Supreme Court in accordance with the directions contained in the order granting special leave.

41. Rules 31 to 38 to apply mutatis mutandis. —Except as otherwise provided in Rules 39 and 40 above the provisions of Rules 31 to 38' above (both inclusive) shall apply mutatis mutandis to Criminal Appeals by special leave of the Supreme Court,

(E) Miscellaneous

42. Forms. — The forms given in Schedule A appended to this chapter shall be used for the respective purposes with such additions, deletions and modifications as may be required in each individual case.

43. List of pending Supreme Court appeals to be maintained and the progress of work in each to be watched. — A list shall be maintained by the office showing the numbers and dates of all pending Supreme Court Appeals, Civil as well as Criminal, in various stages of preparation of the transcript of the record and the Registrar shall examine every fortnight the progress made in such appeals and, if necessary, call upon the appellant or the party who may be responsible for the delay to show cause why a report should not be made to .the Supreme Court regarding the default which has been responsible for the delay.

44. Interpretation. —. In this chapter all references to the Registrar of this Court shall be deemed to include references to the Additional Registrar at Bombay and the Special Officer of the Nagpur Bench at Nagpur.

45. Procedure where printed paper-books prepared for the use of the High Court arc available in sufficient number. — In cases where printed paper-books are available in Criminal matters for the purposes of the Supreme Court Appeal, the required number of copies of such paper-book shall be supplied on application at charges prescribed in Rule 18 of Chapter XXVI of the Bombay High Court Appellate side Rules, 1960 and the same shall be recovered in the manner prescribed therein. Charges for comparing the printed paper-book with the original documents shall be levied at the rate of 25 P. per printed page in addition to the usual charges for certificates of the transcript record by the Registrar.

* * * * *

SCHEDULE "A"

Form No. I

(Rule 1)

Petition for a certificate for leave to appeal to the Supreme Court.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE CIVIL JURISDICTION
SUPREME COURT CIVIL/CRIMINAL APPLICATION No. OF 20
(For leave to appeal to the Supreme Court)
(In First/Second/Letters Patent/Appeal from Order/
Writs Petition No. of 20 .)

Petitioner;
(Original)

versus

Opponent.
(Original)

To

The Honourable the Chief Justice and other Justices of this Honourable Court.

The petition of

Showeth :—

1. That (Here set out Plaintiff's name) filed Suit No. in the Court of the Judge, at and prayed (Here set out a concise statement of the plaint in suit and give amount or value of the subject- matter.).

2. That the said suit came on for hearing before the Judge at on the day of and the said Judge on the day of passed a decree/an order that (Here briefly set out the decree or the order.).

(Paragraphs 3 and 4 to be added in the case of Second Appeals only).

3. That (Here insert the name of the appellant.), the original Plaintiff/Defendant feeling himself aggrieved by the said decree/order filed Appeal No. against the same on the day of in the District Court at

4. That the said appeal came on for hearing before the Judge, at on the day of who (Here state briefly the result of the appeal.).

5. That (Here insert name of the appellant.) the original Plaintiff/Defendant, feeling himself aggrieved by the said decree/order filed First/Second Appeal No. against the same on the day of in the Honourable Court.

6. That the said appeal came on for hearing before the Court consisting of the Honourable Shri Justice and the Honourable Shri Justice son the day of who (Here briefly state the result of the appeal).

(Paragraphs 7 and 8 to be added in the case of Letters Patent Appeals only).

7. That being aggrieved by the said decree/order (Here set out the name of the appellant.), the original Plaintiff/Defendant filed Letters Patent Appeal No. in this Honourable Court on the day of

8. That the said appeal came on for hearing before the Court consisting of the Honourable Shri Justice and the Honourable Shri Justice day of who (Here briefly set out the result of the appeal).

9. That the Petitioner, the original Plaintiff/Defendant, feeling aggrieved by the said decree/order is desirous of appealing to the Supreme Court from the same on the ground following :—

(Here state the grounds and number them consecutively as i, ii, iii, etc.)

10. That the appeal involves a substantial question of law as to the interpretation of the Constitution.

Or

10. That the amount of the value of the subject-matter of the dispute in the Court of the first instance and still in dispute on appeal to the Supreme Court is not less than Rs. 20,000.

Or

10. That the Judgment, decree or final order involves directly or indirectly a claim or question respecting property of the amount or value of Rs. 20,000.

(If the Judgment, decree or final order appealed from affirms the decision of the Court immediately below add.)

And

That the appeal involves a substantial question of law.

(If the appeal also involves a substantial question of law as to the interpretation of the Constitution then add also.)

That the appeal also involves a substantial question as to the interpretation of the Constitution.

Or

(If the property involved in appeal does not exceed Rs. 20,000 in amount or value or if the judgment, decree or final order does not involve directly or indirectly some claim or question respecting property of the amount or value of Rs. 20,000 say.)

10. That the case is a fit one for appeal to the Supreme Court.

11. 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.

The Petitioner therefore prays that Your Lordships be pleased to grant him a certificate under Article 132(1)/133(1) (a)/(b)/(c) of the Constitution of India that (Here state the nature of the Certificate as set out in paragraph 10.).

Form No. II
(Rules 2 and 29)

Notice to show cause.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE CIVIL/CRIMINAL JURISDICTION
SUPREME COURT CIVIL/CRIMINAL APPLICATION No. OF 20 .
(In First/Second/Letters Patent/Criminal/Appeal from
Order/Writs Petition A./Revision/Application/Confirmation
Case No. of 20 .)

Petitioner;
(Original)

versus

Opponent.
(Original)

To

(Fill in the name of opposite party.)

Take Notice that on the day of 20 , the petitioner abovenamed has presented a petition (a copy of which is enclosed herewith) to this Honourable Court for leave to appeal to the Supreme Court from the Judgment and/Decree/Order of this Court passed in the above matter on the day of 20 , praying for leave to appeal to the Supreme Court and that you are hereby required within after the service of this notice upon you to show cause, if any, why a certificate should not be granted as prayed for in the said petition.

Dated this day of..... 20 .

Registrar.

Form No. III
(Rules 4 and 30)

Certificate of fitness for Appeal to the Supreme Court.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY APPELLATE
CIVIL/CRIMINAL JURISDICTION

SUPREME COURT CIVIL/CRIMINAL APPLICATION No. OF
20..... for leave to appeal to the Supreme Court of India at New Delhi, against
the Judgment and/Decree/Order, dated the of this High Court
(Coram :—) in No.

Petitioner;
(Original)

versus

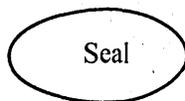
Opponent.
(Original)

UPON reading the Petition of the Petitioner
abovenamed presented on the day of 20 praying for
leave to appeal to the Supreme Court against the Judgment and Decree/Order,
dated the day of 20..... of this Court in the said
Appeal No. of 20.....

AND UPON hearing Shri Advocate for the
Petitioner and Shri Advocate for the Opponent, there being
no appearance for the Opponent No. though served, THIS
COURT DOTH CERTIFY that this case is a fit one for Appeal to the
Supreme Court of India under Article 132(1)/133(1)(a)/(b)/(c)134(1)(c) of the
Constitution of India.

AND THIS COURT DOTH FURTHER DIRECT that the costs of this
Civil Application shall be the costs in the Appeal to the Supreme Court.

WITNESS, Chief Justice at Bombay aforesaid,
this day of one thousand nine hundred and
.....



By the Court,
Sealer:
Additional Registrar.

This day of 20..... Received the above
Certificate on behalf of the Petitioner. Advocate for the Petitioner.

Form No. IV
(Rules 8 and 38)

Notice of the order granting Special Leave and/the lodgment of the petition of appeal.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE CIVIL/CRIMINAL JURISDICTION
SUPREME COURT CIVIL/CRIMINAL APPEAL No. OF 20.....
(From the Judgment and/Decree/Order of this High Court dated
..... in of 20.....)

Appellant;
(Original)

versus

Respondent.
(Original)

To

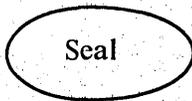
TAKE NOTICE that/Special Leave to appeal has been granted to the appellant abovenamed by the Supreme Court and/the appellant had lodged the petition of appeal in the Registry of the Supreme Court/and that as required by rule 6 of Order XV of the Supreme Court Rules, 1966 the appellant has deposited with the Registrar of the Supreme Court, the requisite security for the costs of the respondent.

TAKE FURTHER NOTICE that if you desire to contest the appeal you may within Thirty days of the receipt of this Notice enter appearance before the Supreme Court, New Delhi, either in person or by an Advocate on Record of that Court duly appointed by you in that behalf and take such part in the proceedings as you may be advised.

TAKE FURTHER NOTICE ALSO that in default of your appearance within the time prescribed the appeal will be proceeded with and determined in your absence and no further notice in relation thereto shall be given to you.

WITNESS; Chief Justice at Bombay aforesaid, this
..... day of One Thousand Nine Hundred and

By the Court,



for Deputy Registrar and Sealer.

This day of 20.....

Form No. V
(Rules 8 and 38)

*Certificate regarding service of Notice on the Respondent(s) under
Rule 11/15, Order XV/XXI of the Supreme Court Rules, 1966)*

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL/CRIMINAL JURISDICTION

SUPREME COURT CIVIL/CRIMINAL APPEAL No. OF 20 .

(From the Judgment and/Decree/Order of this High Court dated
..... in of 20.....)

Petitioner(s);

versus

Respondent(s).

I Do HEREBY CERTIFY that the notice under Rule 11/15; Order
XV/XVI/XXI of Supreme Court Rules, 1966, in the above case under Appeal
to the Supreme Court of India, has been served on

WITNESS, Chief Justice at Bombay aforesaid this
..... day of One Thousand Nine Hundred and

By the Court,

Seal

Additional Registrar.
Sealer.

This day of 20....

Form No. VI

(Rules 9, 13, 14, 16 and 38)

*Notice to appellant for depositing the costs of the preparation,
transmission etc. of the transcript of the record.*

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE CIVIL/CRIMINAL JURISDICTION

SUPREME COURT CIVIL/CRIMINAL APPEAL No. OF 20 .

(From the Judgment and/Decree/Order of this High Court dated
..... in of 20.....)

Appellant;

versus

Respondent.

To

TAKE NOTICE that you are required to make a/an additional deposit
of Rs..... within eight/thirty days from the service hereof on you to
meet the costs transmission/the preparation of the English Transcript of the
original/record/proper of the case in question/and the printing/cyclostyling/
and the transmission thereof to the Supreme Court.

TAKE FURTHER NOTICE that if you fail to make the said additional
deposit with the time mentioned above, the default will be reported to the
Supreme Court.

WITNESS....., Chief Justice at Bombay aforesaid, this.....
day of One thousand nine hundred and

Seal

By the Court,

for Deputy Registrar,
and Sealer.

This day of 20...

Form No. VII
(Rules 10 and 38)

Notice to the appellant for inspection of the Record and for filing the list of documents to be included in the Transcript of the record.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY APPELLATE
CIVIL/CRIMINAL JURISDICTION

SUPREME COURT CIVIL/CRIMINAL APPEAL No. OF 20 .

(From the Judgment and/Decree/Order of this High Court dated
..... in of 20.....)

Appellant;

versus

Respondent.

To

NOTICE is hereby given to you, that the Record and Proceedings of the case from which the said Supreme Court Appeal arises are available in this Court and that you may take inspection of the same, if you so desire.

TAKE FURTHER NOTICE that you are required to file in triplicate within four weeks from the date of receipt of this notice a list of documents which you desire to include in the appeal paper book, after serving on each of the Respondents a copy of the said list, and also to produce an acknowledgment from each of the Respondents that a copy of the said list has been served on him.

TAKE FURTHER NOTICE ALSO that you are required to take all necessary steps with due diligence to arrange to transmit in triplicate with all convenient despatch a Transcript in English of the Record proper of the case/the printed/cyclostyled record of the case so far as is material to the questions in dispute in the said appeal for being placed before the Supreme Court for the hearing of the said Appeal.

WITNESS, Chief Justice at Bombay, aforesaid, this
..... day of One thousand nine hundred and

By the Court,

Seal

for Deputy Registrar and Sealer.

This day of 20.....

Form No. VIII
(Rules 10 and 38)

Notice to the Respondent for inspection of the Record and for filing the list of additional documents to be included in the Transcript of the Record.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE CIVIL/CRIMINAL JURISDICTION

SUPREME COURT CIVIL/CRIMINAL APPEAL No. OF 20

(From the Judgment and/Decree/Order of this High Court dated
..... in of 20.....)

Appellant;

versus

Respondent.

To

NOTICE is hereby given to you, that the Record and Proceedings of the case from which the said Supreme Court Appeal arises are available in this Court and that you may take inspection of the same, if you so desire.

TAKE FURTHER NOTICE that you are required, upon the Appellant's serving on you a copy of the list of documents which the Appellant intends to include in the paper-book, to file in triplicate within three weeks of the service on you of the said list by the Appellant, a list of such additional documents as you consider necessary for the determination of the appeal.

TAKE FURTHER NOTICE ALSO that you are required to take all necessary steps with due diligence, so far as you may be concerned, in the matter of arranging to transmit in triplicate with all convenient despatch a Transcript in English of the Record proper of the case/the printed/cyclostyled record of the case so far as is material to the questions in dispute in the said appeal for being placed before the Supreme Court for the hearing of the said appeal.

WITNESS, Chief Justice at Bombay, aforesaid, this
..... day of One thousand nine hundred and

By the Court,

Seal

for Deputy Registrar and Sealer.

This day of 20.....

Form No. IX
(Rules 19 and 38)

Notice of the certification and transmission of the transcript of the record.
**IN THE HIGH COURT OF JUDICATURE AT BOMBAY APPELLATE
CIVIL/CRIMINAL JURISDICTION**

SUPREME COURT CIVIL/CRIMINAL APPEAL No. OF 20 .

(From the Judgment and/Decree/Order of this High Court dated
..... in of 20.....)

Appellant(s);
(Original)

versus

Respondent(s).
(Original)

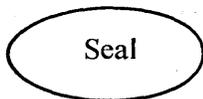
To

TAKE NOTICE that the English Transcript of the Record proper/the
printed cyclostyled record of the abovementioned appeal has been
authenticated and transmitted to the Supreme Court on the

TAKE NOTICE ALSO that you are required to take necessary steps in
the prosecution of the Appeal in accordance with the provisions of Supreme
Court Rules, 1966.

WITNESS Chief Justice at Bombay, aforesaid, this
.....day of One thousand nine hundred and

By the Court,



for Deputy Registrar and Sealer.

This day of 20.....

Form No. X
(Rules 19 and 38)

*Certificate of the Registrar under rules 11/15, Order XV/XXI of
the Supreme Court Rules, 1966.*

IN THE HIGH COURT OF JUDICATURE AT BOMBAY APPELLATE
CIVIL/CRIMINAL JURISDICTION

SUPREME COURT CIVIL/CRIMINAL APPEAL No. OF 20 .

(From the Judgment and/Decree/Order dated in of
..... 20.....)

Petitioner(s);

versus

Respondent/s.

To

I DO HEREBY CERTIFY that the notices regarding the authentication
and the despatch of the Transcript in English of the record
proper/printed/cyclostyled record in the above case to the Supreme Court
having been duly served on the Appellants and the Respondents as
follows :—

WITNESS..... Chief Justice at Bombay aforesaid,
this day of One thousand nine hundred and

By the Court,

Seal

Additional Registrar Sealer.

This day of 20.....

Form No. XI

(Rule 28)

Petition for a Certificate for Leave to appeal to the Supreme Court.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL/CRIMINAL JURISDICTION

SUPREME COURT CIVIL/CRIMINAL APPLICATION No. OF 20 .

(For leave to appeal to the Supreme Court)

(In Criminal/Appeal/Revision/Application/Confirmation Case No.....
of 20.....)

Petitioner;
(Original)

versus

Opponent.
(Original)

To

The Honourable the Chief Justice and other Justices of this Honourable
Court :

The Petition of

SHOWETH —

1. That the Petitioner/Opponent abovenamed was charged with and tried for offences under sections by the Judicial Magistrate, First Class,/Metropolitan Magistrate,/Session Judge at and was acquitted of all/the offences under sections, but was convicted of the offences under sections and was sentenced to death/simple/rigorous imprisonment for and/or a fine of Rs. in default of payment of which to simple/rigorous imprisonment for for the offence under section and (Here give details of sentences for the various offences stating whether the substantive sentences of imprisonment were ordered to run concurrently.)

2. That the Petitioner/Opponent abovenamed being aggrieved by the said order of acquittal/conviction and sentence filed Criminal Appeal No. in this Honourable Court on

3. That the said appeal came on for hearing before the Court consisting of the Honourable Shri Justice and the Honourable Shri Justice on the day of who (Here briefly state the result of the appeal.).

4. That the Petitioner feeling himself aggrieved by the said judgment and order is desirous of appealing to the Supreme Court from the same on the grounds following :—

(Here state the grounds and number them consecutively as i, ii, iii, etc.)

5. That the appeal involves a substantial question of law as to the interpretation of the Constitution.

Or

5. That the case is a fit one for appeal to the Supreme Court.

6. That the petitioner is ready and willing to comply with the rules and orders regulating appeals to the Supreme Court.

The petitioner, therefore, prays that Your Lordships be pleased to grant the petitioner a certificate under Article 132(1)/134(1)(c) of the Constitution that (Here state the nature of the certificate as set out in paragraph 5.).

SCHEDULE "B"

Rules as to Printing of Record

1. The record in appeals to the Court shall be printed in the form known as demy quarto on both sides of the paper with single spacing,
2. The size of the paper used shall be such that the sheet, when folded and trimmed, will be about 11 inches in height and 8½ inches in width or 29.7 cms. in height and 21 cms. in width.
3. 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.
4. Records shall be arranged in two parts in the same volume, where practicable, viz.:—
 - Part I. — The pleadings and proceedings, the transcript of the evidence of the witnesses, the judgments, decrees, etc., of the Courts below, down to the order admitting the appeal.
 - Part II. — The exhibits and documents.
5. 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.
6. Part I shall be arranged strictly in chronological order, etc., in the same order as the Index.

Part II shall be arranged in the most convenient way for the use of the Court, as the circumstances of the case require. The documents shall be printed as far as suitable in chronological order, mixing Plaintiff's and Defendant's documents together when necessary. Each document shall show its exhibit marks, and whether it is a Plaintiff's or Defendant's 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 appeal, shall be kept together. The order in the record of the documents in Part II will probably be different from the order of the Index, and the proper page number of each document shall be inserted in the printed Index.

The parties will be responsible for arranging the record in proper order for the Court, and in difficult cases counsel may be asked to settle it.
7. The documents in Part I shall be numbered consecutively.

The documents in Part II shall not be numbered apart from the exhibit mark.
8. Each document shall have a heading which shall consist of the number of exhibit mark and the description of the document in the Index without the date.

9. 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.

PART II

The word 'Exhibit' shall first appear and next to it the exhibit mark and the description of the documents in the Index with the date.

Sufficient space shall be left after the heading to distinguish it from the rest of the matter printed on the page.

10. The parties shall agree to the omission of formal and irrelevant documents, but the description of the document may appear (both in the Index and in the record,) if desired, with the words 'not printed' against it.

A long series of documents, such as accounts, rent rolls, inventories etc., shall not be printed in full unless counsel advises, but the parties shall agree to short extracts being printed as specimens.

11. In case where maps are of an inconvenient size or unsuitable in character, the appellant shall, in agreement with the respondent, prepare maps drawn properly to scale and of reasonable size, showing as far as possible, the claims of the respective parties, in different colours.

* * * * *

CHAPTER XXIX-B

Transfer of Cases under Article 139-A of the Constitution

1. The Registrar 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.
2. The Registrar shall on receipt of the Order calling upon the party to show cause why the case should not 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.
3. 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.
4. The Registrar shall transmit to the Supreme Court twenty five printed copies of the record and proceedings of the transferred case within six months from the date of the Order.
5. The Rules contained in Chapter XXIX-A regarding service of notice, costs, processes and printing and preparation of record shall mutatis mutandis apply to the transferred applications under this Chapter.
6. The Registrar 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.

* * * * *

CHAPTER XXX

MISCELLANEOUS

1. Whenever the High Court is closed on the last day of the period prescribed by any of these rules for doing a thing, the same may be done before the close of the next working day, whether the rule specially so provides or not.

2. (i) In all memos of appeals, petitions, affidavits etc. Court-fee stamps, if any, should be neatly affixed at the end of such memos of appeals, petitions, affidavits etc,

(ii) When typing memos of appeals petitions, affidavits etc. blank margin of about five centimeters should be left on top, bottom and side of each page.

(iii) Whenever exhibits are annexed even if judgments they must be referred to in the body of the petition, affidavit, etc. and they must also be separately indicated in the margin by a reference to the exhibit number given to them.

¹3. (1) An application for review or for amendment of an order or a decree, for speaking to the minutes passed by a Single Judge of this Court shall be placed before that Judge: provided, however, where such Judge has ceased to be the Judge of the High Court or has ceased to sit at the particular Bench, such application shall be placed before the regular Court of the Single Judge dealing with the category of matters to which the proceedings relates — as for example :—

(a) Writ petition, if the original order had been passed in a Writ Petition;

(b) First Appeals, if the original order had been passed in any other Civil matters;

(c) Criminal Appeals, if the original order had been passed in any Criminal matters:

Provided 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 Honourable 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 however that where one Judge of the said Division Bench has ceased 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. Substituted vide M.G.G., Dt.26-9-1996, Pt 4-C, Pg. 430.

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 –

(a) Writ Petitions, if the original order had been passed in a Writ Petition;

(b) First Appeals, if the original order had been passed in a First Appeal;

(c) Criminal Appeals, if the original order had been passed in Criminal Appeal or a Criminal Application.]

4. (A) Every prayer clause for interim relief shall contain the following particulars -

(i) If the execution of a decree or award is to be stayed, the number of the suit or appeal or other proceeding in which the decree or the order or the award was passed and the date of the order or the award and the Court or authority which passed the decree or the award;

(ii) if the prayer is for an injunction the description of the parties who are to and the precise nature of the acts from which they are to be restrained;

(iii) the description of the property where the property is required to be mentioned in the writ;

(iv) if anticipatory bail is sought the full names and addresses of the persons at whose instance the arrest is apprehended, the crime registration number and the concerned police station if a complaint has been, to the knowledge of the petitioner, filed with the police and the nature of the offence alleged against the petitioner;

(v) such other particulars which will enable the office to prepare the writ on the basis of the prayer clause read with the order passed by the Court without going through the entire petition and connected papers.

(B) If a petition does not contain the particulars mentioned in (A) above, the petition shall be notified as being under objection for non-compliance with this Rule;

(C) Even when the Court has passed an order for interim relief on a petition containing prayer clause not in accordance with (A) above, the Office shall, within two days from the Court passing the order, notify the petition as being under objection. The Advocate may then move the Court for amending the prayer clause.

5. Where additional evidence is received or recorded and when additional documents are received or taken on record in the High Court, the record of such evidence and the documents shall be transmitted to the Court of first instance along with other record and documents.

¹[6. 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.]

* * * * *

1. Add by Notification No. P.3603/2019, Dated 22-11-2019.

CHAPTER XXXI

¹[PRESENTATION OF PROCEEDINGS AT THE OFFICE OF THE HIGH COURT OF BOMBAY AT THE PRINCIPAL SEAT, ITS BENCHES AND AT GOA]

²1. ³[***] All appeals, applications, references and petitions including petitions for exercise of powers under Articles 226 and 227 of the Constitution arising in the Judicial Districts of Akola, Amravati, Bhandara, Buldhana, Chandrapur, Nagpur, Wardha, Yavatmal ⁴[, Gadchiroli, Gondia and Washim] which lie to the High Court of Bombay shall be presented to the ⁵[***] Registrar of that High Court ⁶[Bench] at Nagpur and shall be disposed of by the Judges sitting at Nagpur:

³[***]

³[***]

⁷[2. All appeals, applications, references and petitions including petitions for exercise of powers under Articles 226 and 227 of the Constitution arising in the Judicial Districts of Ahmednagar, Aurangabad, Beed, Jalgaon, Jalna, Nanded, Osmanabad, Parbhani ⁴[, Latur, Dhule and Nandurbar] which lie to the High Court at Bombay shall be presented to the ¹[Registrar, High Court Bench at Aurangabad] and shall be disposed of by the Judges sitting at Aurangabad:]

³[***]

³[***]]

⁸[3. All appeals, applications, references, petitions including petitions for exercise of powers under Articles 226 and 227 of the Constitution of India, arising in the State of Goa, which lie to the High Court at Bombay, shall be presented to the ¹[Registrar, High Court of Bombay at Goa] and shall be disposed of by the Judges sitting at ¹[High Court of Bombay at] Goa ;

³[***]

³[***]

4. All appeals, applications, references and petitions including petitions for exercise of powers under Articles 226 and 227 of the Constitution of India, arising in the ¹[Judicial Districts of Bombay (except the cases falling under the Original Side jurisdiction of the Bombay High

1 . Substituted vide Notification No. Rule/P. 3601/2022, Dated-21-04-2022.

2 . Substituted by Notification No. P.3603/86 Dt. 7-8-1986.

3 . Deleted vide Notification No. Rule/P. 3601/2022, Dated-21-04-2022

4 . Inserted and Added vide Notification No. Rule/P. 3601/2022, Dated-21-04-2022

5 . Deleted vide Notification No. Rule/P. 3601/2022, Dated-21-04-2022

6 . Added vide Notification No. Rule/P. 3601/2022, Dated-21-04-2022

7 . Substituted by Notification No. P.3602/88, Dt. 30-12.1988.

8 . Substituted by Notification No. P. 3604/87 Dt. 3-11-1987.

Court), Kolhapur, Nashik, Pune, Raigad, Ratnagiri, Satara, Sangli, Sindhudurg, Solapur, Thane, as well as the Union Territory of Dadra and Nagar Haveli and Daman and Diu] which lie to the High Court at Bombay, shall be presented to the ¹[***] Registrar (Judicial), High Court of Judicature, ¹[***] at Bombay and shall be disposed of by the Judges sitting on the Appellate Side:

¹ [***]

¹ [***]

¹ [***]

²[4A. The Chief Justice may in his discretion order that any case arising in any of the Judicial Districts of Maharashtra as well as Goa, shall be heard at the Principal Seat.

Provided that the Chief Justice may in his discretion order that any case presented at the Principal Seat be heard at Nagpur Bench or Aurangabad Bench or the Bombay High Court at Goa.]

* * * * *

1 . Deleted vide Notification No. Rule/P. 3601/2022, Dated-21-04-2022
2 . Inserted vide Notification No. Rule/P. 3601/2022, Dated-21-04-2022

CHAPTER XXXI-A

GENERAL

Deleted vide High Court Notification No. P. 3606/79, dated the 17th April 1980 which was published in Maharashtra Government Gazette, dated 1-5-1980, Part 4-C, pages 577-587.

* * * * *

PART III – LEGAL PRACTITIONERS

CHAPTER XXXII

LEGAL PRACTITIONERS

¹1. These rules shall come into effect from 1st January 1941.

²[Advocates appearing in the Supreme Court, High Court, Sub-ordinate Court, Tribunal or Authorities shall wear the following as part of their dress which shall be sober and dignified :—

Advocates other than lady Advocates

I. (a) a black buttoned up coat, chapkan, achkan black sherwani and which bands with Advocate's Gowns.

(b) a black open breast coat, white shirt, white collar stiff or soft and white bands with Advocate's Gowns.

In either case, long trousers (white, black striped or grey or any other sober colour) or Dhoti.

Lady Advocates

II. (a) Black and full or half sleeve jacket or blouse, white collar stiff or soft, with white bands and Advocate's Gowns.

OR

white blouse, with or without collar, with white bands and with a black open breast coat.

(b) Sarees or long skirts (white or black or any mellow or subdued colour without any print or design) of Flare (white, black or black striped or grey) or Punjabi dress (Churidar-Kurta or Salwar-Kurta with or without duppatta) white or black;

Provided that the wearing of Advocate's gown shall be optional except when appearing in the Supreme Court or in a High Court ;

1. The Rules for the admission of Advocates (O.S.) will be found in Chapter I of the Rules and Forms of the High Court on the Original Side, published by the Prothonotary and Senior Mater (O.S.)

2. Substituted vide Notification No. P. 3601/2000, Dt. 10-2-2000, published in Mah. Govt. Gazette Dt. 2-3-2000, Pt. 4-C, pg. 89.

Provided further that in Courts other than the Supreme Court, High Court, District Court, Sessions Court or City Civil Court a black tie may be worn instead of bands."]

2. One Advocate for each party usually heard on Appellate side. - On the Appellate Side one Advocate will be heard on behalf of each of the parties or set of parties appearing separately, but it will be open to the Court, on application, to allow two Advocates to be heard on behalf of any one of them.

This rule does not apply to applications or miscellaneous matters, in which one Advocate only will be heard on behalf of each one of the parties.

3. Attorney not Advocate not to address Court. — No Attorney, who is not also an Advocate, shall address the Court; but such Attorney may, on filing a duly stamped Vakalatnama, instruct an Advocate or file any application in the Registrar's Office.

4. Advocate who is Attorney not to practise as Advocate on Original Side. — An Advocate shall not be entitled to practice as an Advocate on the Original Side if he is also enrolled as an Attorney; but, save as aforesaid, he shall have all the rights and privileges of an Advocate. He may, however, after getting his name removed from the Roll of Attorneys, practice as an Advocate on the Original Side.

5. Attorneys admitted as Advocates not disqualified as Attorneys — Attorneys admitted as Advocates shall not thereby be deprived of their powers to act as Attorneys-at-Law.

* * * * *

SCHEDULES I TO IV

(Deleted in view of the Advocates Act, 1961)

* * * * *

SCHEDULE V

*Rule made by the Bar Council under section 15(b) of the
Indian Bar Councils Act, XXXVIII of 1926*

Appearance of Advocates of other High Courts on the Appellate side. - An Advocate of any other High Court in India whose name is not entered on the Roll of Advocates of this High Court may, with the permission of the Honourable the Chief Justice appear and plead in any particular case or cases in this High Court on the Appellate Side provided an Advocate of this High Court is also instructed to appear with such first mentioned Advocate; save as aforesaid no such Advocate shall practise in this High Court on the Appellate Side.

* * * * *

¹[Schedule VI

NOTIFICATION

No. P. 3603/2018.—In exercise of powers conferred under Section 16(2) and 34(1) of the Advocates Act, 1961 (Central Act 25 of 1961) and pursuant to the directions of the Hon'ble Supreme Court of India in its decision in “Indira Jaisingh *V* Supreme Court of India” (2018 (3) BCR 517), the High Court of Bombay makes the following rules regarding designation of an Advocate as a Senior Advocate, superseding the existing Rules framed under section 16(2) of the Advocates Act, 1961, contained in Schedule VI of the Bombay High Court Appellate Side Rules, 1960 and in Rule 24 of the Bombay High Court Original Side Rules, 1980.

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RULES FRAMED UNDER SECTION 16(2) OF THE ADVOCATES ACT, 1961

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- (4) Designation as a Senior Advocate
- (5) Procedure for designation of Senior Advocates.
- (6) Norms and Guidelines
- (7) Review and Recall
- (8) Interpretation
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FORM — I : FORM OF PROPOSAL

FORM — II : PROFORMA OF BIODATA

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

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

¹ Amended by Notification No. P.3603/2018, dated 24.10.2018

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.

(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 thisday of20.

(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.

HIGH COURT OF JUDICATURE AT BOMBAY,

Dated the 24th October, 2018

S. P. TAVADE,

I/c. Registrar General.

SCHEDULE VII

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.

(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 or Attorney 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 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 rectifies 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, Civil Procedure Code.

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 from 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 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) Deleted.

(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.

7A. Notwithstanding anything contained hereinbefore the provisions in this rule will apply to the subject of non- attendance of the Advocates practising in the High Court.

(1) If an Advocate is not able to attend to any Criminal matter or any matter which is already on board or to any matter which is specially fixed on any day or in any week, he shall make or cause to be made a motion in the Court before which the matter is on board or before which the matter is to come on board for adjourning the matter and the Court may, after hearing the other Advocate or Advocates in the matter for sufficient cause, adjourn the matter for such period as it deems fit.

¹[(2) The Registrar, the Additional Registrar or the Special Officer may direct that the matters not covered by sub-rule (1) above of any Advocate shall not be placed on board for a period not exceeding 14 days on an application made to him by the Advocate who for the said period will be unable to attend the Court on account of some unforeseen reason or on account of being required to go out of Bombay, Nagpur, Aurangabad or Panaji as the case may be :

Provided that the Registrar, the Additional Registrar or the Special Officer may pass similar direction for a further period not exceeding 14 days if in respect of those matters for which direction is sought the Advocate concerned produces before the Registrar, Additional Registrar or the Special Officer consent of the other Advocate appearing in the said matter:

Provided further that the Judge designated in this behalf by the Chief Justice may give similar direction on sufficient cause being shown for a period exceeding the period for which the Registrar, the Additional Registrar or the Special Officer has given the direction.]

(3) The judge designated in this behalf by the Chief Justice may direct that the matters of any Advocate who on account of sickness is unable to attend the Court shall not be placed on board for such period as he deems fit.

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 purposes 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 :-

¹ Substituted vide High Court Notification No. P. 3601/82, Dt. 29-4-1983, published in M.G.G., Part IV-C, dated 09-06-1983.

- (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;
- (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 the 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 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
- (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 from 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 from 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 acknowledgement by the client. The Court if it is 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 order 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 party, shall not act, appeal or plead in the suit, appeal or other proceedings or in an appeal or application for revision arising there from or in any matter connected therewith for the opposite party.

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 a 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.

(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.

1. Added by Notification No. P.3602/2018, dated 25-10-2018

(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 Chief Justice.

9C. Procedure to be followed.—(1) 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.

(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 names of the persons who were or are partners of the firm of Advocates but of no others.

(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 the District Judge, 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 as soon as may be from the date on which such change occurs or 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 Advocates signs any document or writing on behalf of the firm he 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 proceeding 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 of 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 practise or has by reason of infirmity of mind or body, or otherwise become unable to continue to act. .

12. No advocate who has been disbarred 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.

¹**12(A).** 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.

12(B). Any Advocate resorting to strike as per Rule 12(A) will be dealt with in accordance with law.

²**12(C).** *[Deleted]*

13. No Advocate who has been found guilty of Contempt of Court shall appear, act 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.

³**14.** *Deleted.*

15. The above rules shall be subject to rules made or deemed to have been made by the High Court under section 34(2)(iii) of the Advocates Act determining the persons who shall be entitled respectively to plead and to act in the High Court in the exercise of its Original Jurisdiction.

1. Added vide High Court Notification No. P. 3602/2007, dated 17-08-2007, Published in M.G.G., Part IV C, dated 30th August 2007.

2. Deleted vide High Court Notification No. P. 3602/2007 dated 30-08-2013, Published in the M.G.G., Part IV-C dated 12-18th September, 2013

3. Deleted vide High Court Notification No. P. 0108/61, Dt. 19-7-1979.

¹[VAKALATNAMA

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 which is not applicable.)

In the Court

Civil Suit Criminal Case:

Appeal/Revision/etc.

No. of 20 .

Plaintiff/Appellant,
Petitioner,
Complainant etc.

Versus

Defendant/Respondent/
Opponent/Accused.
Amount of
Claim in Suit etc.

I/We,..... Inhabitant/s.....of the.....
in the above matter hereby appoint.....to appear and act for
me/us as my/our Advocate/s.

Witness my/our hand this day of 20 .

(Signed).....

Witness:

Accepted]

²[Signature and address of Advocate/s

Office:

Residential:

Filed in Court on.....]

1 .Substituted by Notification No. P.0108/61 dt. 03-12-1985.
2 .Substituted by Notification No. P.0108/61 dt. 20-05-1991.

PART IV — ADVOCATES' CLERKS

CHAPTER XXXIII

ADVOCATES' CLERKS

1. Meaning of expression "recognised clerk". — The expression "recognised clerk" means a clerk employed by an Advocate and permitted as such to have access to the High Court and the Courts subordinate thereto in which his employer is authorized to practice and to the offices attached thereto.

¹2. Number of Advocates' Clerks to be recognized – (i) Two or more clerks may be recognized for one Advocate if the practice of such Advocate necessitates their employment.

(ii) A recognized Clerk of an Advocate will only attend the work of the Advocate, who has recognized him as a Clerk.

(iii) A recognized Clerk may be engaged by one or more Advocates.

(iv) No person other than the recognized Clerk of the concerned Advocate shall be allowed to have access to case papers and records, by the Registry.

3. Register for recognised clerks. — The ¹²⁸[Registrar General] shall maintain in the following form a register of all recognised clerks registered in the High Court:—

Register of Recognized Clerks of Advocates

Serial No.	Name	Father's Name	Residence	Date of Registration	Name or Names of Advocates under whom employed.	Date of removal from the register with cause of removal in brief.	Remarks.
1	2	3	4	5	6	7	8

¹. Substituted by Notification No. P. 3602/2006, Dt. 22-12-2006.

¹[(i) On registration of a Clerk as a recognized Clerk of an Advocate, the Registry shall issue him a stamp size photo identity card at his cost giving necessary particulars about his name, address, date of registration, name/names of Advocate(s), who have recognized him as their Clerk under the signature of any officer authorized by the Registrar General.

(ii) Every recognized Clerk of an Advocate visiting the Registry for any purpose shall prominently display the Identity Card on his person.

(iii) It will be obligatory for every registered Clerk to renew their Photo Identity Card after a period of every 5 years. Advocate(s) who has employed him, to continue their services as Clerk.

(iv) Failure to renew the Photo Identity Card after the prescribed time limit shall result in removal of the name of the recognized Clerk from the register.]

4. Application by Advocate for recognition of clerks. — (i.) Every application for recognition shall be made by an Advocate by a letter addressed to the Registrar in the following form :—

"I pray that (name) son ofaged resident of..... may be recognized as a clerk.

I have made due enquiries with regard to the character and qualifications of the candidate, and certify that in my opinion he is a fit and proper person to be recognized as an Advocate's clerk under the rules made by the High Court of Judicature at Bombay. I also certify that he will be employed bona fide in my service for clerical work."

(ii) The application shall state the Advocate's standing at the Bar, the name or names of the recognized clerks, if any, already in his service, and the educational qualifications of the person proposed to be employed as a recognized clerk.

5. Qualification for recognition. — No person shall be registered as a recognized clerk, unless the Registrar is satisfied that he has had sufficient elementary education in Marathi or Hindi and also has sufficient knowledge of English.

6. Mukhtyar not admitted. — No person shall be admitted or continued as a recognized clerk, if he is, or acts as, a recognized agent (Mukhtyar), either under a special or general power of attorney of any person other than the Advocate or Advocates by whom he is employed.

1. Substituted by Notification No. P3602/2006, Dt. 22-12-2006.

7. Access to High Court offices, — No clerk employed by an Advocate shall be allowed access to any of the offices of the High Court, unless he is a recognized clerk.

8. When recognized clerk can act on behalf of Advocate. — A recognized clerk may act on behalf of his client in all matters of formal nature which do not require the personal attendance of an Advocate.

9. Recognized clerk to give receipts for money received from clients. — When a recognized clerk receives any money from his master's client, he shall give to the client a receipt for the amount received by him specifying exactly what the money was received for e.g. memorandum of appeal, process fee, Advocates' fee, etc. The details shall be set out separately either in the receipt itself or on a separate piece of paper attached to it.

10. Removal of recognized clerk. — The Registrar, for reasons to be recorded in writing, and after hearing the clerk in his defence, if he so desires, may order the removal of any recognized clerk and strike off his name from the Register; and on the passing of such order, the clerk shall cease to be a recognized clerk.

11. Recommendation for re-registration. — No person removed under the preceding rule shall be recommended for registration by any Advocate or be registered, unless he has been declared to be eligible for registration under the next rule.

12. Reinstatement after removal by Registrar. — The Registrar may at any time revise the order passed by him under Rule 10, and may, for reasons to be recorded in writing, reinstate the person removed or declare him eligible for registration.

13. Advocate ceasing to employ recognized clerk to inform Registrar. — Whenever an Advocate ceases to employ a recognized clerk, he shall immediately notify the fact to the Registrar stating briefly the reasons why he has ceased to employ him, .On receipt of the information, the necessary entry shall be made in the Register. If the reasons stated by the Advocate for ceasing to employ any such clerk discloses any misconduct, the Registrar may take action under rule 10 above.

* * * * *

CHAPTER XXXIV

¹RULES TO REGULATE PROCEEDINGS FOR CONTEMPT UNDER ARTICLE 215 OF THE CONSTITUTION OF INDIA AND THE CONTEMPT OF COURTS ACT, 1971

1. Title. — These Rules shall be called the Contempt of Courts (Bombay High Court) Rules, 1994.

2. Commencement. — They shall come into force on the date of publication.

3. 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 a 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

4. (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 forthwith or on such date as may be appointed by the Court in that behalf.

(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 terms as to undertakings or otherwise as the Court may direct.

¹ New Chapter XXXIV has been substituted for the existing Chapter XXXIV vide Mah. Govt. Gazette Dt. 8-8-1996, Pt. 4-C, pg. 364.

PART II

5. In case of contempt of Court other than the Contempt referred to in Rule 4, 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.

¹[(f) If any information is lodged in the office of this Court in the form of a Petition or otherwise, inviting this Court to take action under the Contempt of Courts Act, 1971 or Article 215 of the Constitution of India, where the informant is not one of the persons named in Section 15 of the Contempt of Courts Act, 1971, the aforesaid Petition or information received shall be placed before the Chief Justice in Chambers for appropriate orders.

(g) The office shall place the same alongwith all other relevant papers before the Chief Justice in Chambers, within fifteen days of receipt of the same.

(h) In the event of the Chief Justice directing cognizance to be taken on the same, it shall be put up before the appropriate Division Bench in form of a Registered Petition, within fifteen days;

(i) The office shall maintain a separate register for registering such Petitions.]

COGNIZANCE AND PROCEDURE

6. 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.

¹ Sub Rule (f) to (i) added vide High Court Notification No. 3601/2008, Dt. 24.9.2008, published in M.G.G. Pt. IV-C, Dt. 2.10.2008.

7. (a) Every Petition or Reference under Rule 5(b), (c), (d) or (e) shall contain.—

(i) the name, description and complete address of the Petitioner or Petitioners and of the person charged;

(ii) nature of the contempt alleged, and such material facts, including the date or dates of 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 5(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.

8. (1) Every Petition or Reference under Rule 5(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, along with issue of Notice also issue aailable or non-ailable warrant for arrest of the contemnor.

9. (1) Notice to the person charged shall be in form 1. 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 off by Order of the Court.

(2) When action is initiated on a Petition or a Reference, a copy of the Petition or the Reference along with the annexures and Affidavits shall be served upon the person charged.

10. 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.

11. No further Affidavit or document shall be filed except with the leave of the Court.

12. (a) Reference under section 15(2) of the Act may be made by subordinate Courts either suo motu or on an 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.

13. 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.

14. 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 summarise the relevant material justifying filing of the Petition.

15. 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 Books 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 of 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.

16. The Court may direct the Advocate General to appear and assist the Court.

17. 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 of 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.

18. 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.

19. (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 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.

20. Whenever the High Court or Designated Court issues 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 the proceeding, direct the personal attendance of such person, and, if necessary, enforce such attendance in the manner herein above provided.

21. When any 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.

Enquiry

22. (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 pleads guilty 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 charges either on the Affidavits filed or after taking such further evidence as it deems fit.

23. The Rules contained in Bombay High Court Rules pertaining to grant of copies, process fees and translation of documents and such other matters in respect of which no provision is made in the Rules shall mutatis mutandis apply to the proceedings in the High Court and designated Court.

¹**24.** (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.

(ii) Every Petition or reference in respect of Civil Contempt of Subordinate Court shall be heard and disposed of by a Single Judge.

(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.

(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.]

25. (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.

1. Substituted vide High Court Notification No. P. 3602/2014 dated 29th November, 2014, published in M. G. G., Extraordinary, Part 4-C dated 01st December, 2014.

(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

26. 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.]

¹[FORM I

Notice

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE/ORIGINAL SIDE

Criminal/Civil

CONTEMPT PETITION No.....

In

(.....)

.....

Petitioners.

Versus

.....

Respondents.

1. 'Form I' added vide High Court Notification No. P. 3603/94, Dt. 11-3-1997, Published in the Mah. Govt. Gazette Dt. 20-11-1997, Pt. 4-C, pg. 527.

To

.....
.....
.....
.....

Whereas upon considering the material before it, Honourable Court is satisfied that there exists a prima facie case for issuance of a notice to considering action under Contempt of Courts Act against you;

Whereas the above named petitioner/s has/have presented Contempt Petition through his/her/their Advocate S/Shri praying for taking action under Contempt of Courts Act against you;

Whereas a reference is made to this Hon'ble High Court by.....; a Court subordinate to the Hon'ble High Court, praying for taking action under Contempt of Courts Act against you;

As stated in the accompanying copy of—

- (a) Material relied upon i.e.
- (b) and (c) copy of Contempt Petition.
- (d) and (e) a copy of reference.

And whereas the same having been registered in this Court as Contempt Petition and this Court having on the day of20..... passed the following order :—

‘
.....
.....’

Take therefore notice that the aforesaid Contempt Petition has been fixed for hearing on the day of..... 20..... on which date you shall appear in person before this Court and shall continue to remain present during hearing on all subsequent dates to which this Court may seem convenient to fix the matter, till the proceeding is finally disposed off by the order of the Court; and

To show cause as to why the action under Contempt of Courts Act should not be taken against you.

In case of your failure to appear as directed above and to show cause this Court shall proceed to pass such orders as may deem fit and proper.

Witness Shri Chief Justice at Bombay, aforesaid this..... day of..... 20.....

By order and in the name of the Court
(Additional Registrar, Judicial).]”

* * * * *

CHAPTER XXXV

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) Act, 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.

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 opponents.

(b) Every such application shall make the Advocate General and the person against whom the proceeding is to be instituted or continued as co-opponents.

(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 opponents 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 applications shall *mutatis mutandis* apply to such proceedings.

(d) 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.

* * * *

PART V – APPENDICES

APPENDIX A

AN ACT FOR ESTABLISHING HIGH COURTS OF JUDICATURE IN INDIA

Act of Parliament, 24 and 25 Vic., Cap. 104.

Received the Royal Assent. 6th August 1861.

[Repealed by section 130 of the Government of India Act, 1915.]

* * * * *

APPENDIX B

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, intituted "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 Foujdarry 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 Foujdarry 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 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;

S. 17 - 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 made 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;

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 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 [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."

¹**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 whensoever 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 vacant, the said High Court shall be and is hereby authorized

1. Amended by the High Courts (Seals) Act, VII of 1950.

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.

¹8. 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,

¹. Amended by Letters Patent, Dt. 11-3-1919

and enrol such and so many Advocates, Vakeels, and Attorneys as to the said High 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

1. Amended by the Bombay High Court Letters Patents (Amendment) Act, XLI of 1948.

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; 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

1. Amended by Letters Patents. dated 11-3-1919;9-12-1927 and 12-12-1928.

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, 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 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.

¹22. 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 the Court of original criminal jurisdiction which may be constituted by one or more Judges of the said High

1. Amended by the Bombay High Court Letters Patents (Amendment) Act, XLI of 1948.

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.

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 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.

¹36. 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 One hundred and eight of the Government of India Act, 1915, and if such Division Court is composed of two or more Judges,

1. Amended by Letters Patents dated 11-3-1919 and 9-12-1927.

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.

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 or 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 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 from 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 against. 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.

¹44. 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 section Seventy-one of the Government of India Act, 1915, and also of the Governor-General in cases of

¹ Amended by Letters Patents, Dt. 11-3-1919.

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. GONNE

Bombay Castle, 9th April 1866.

Secretary to Government

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