

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."]

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

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 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 ²[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.

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

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):

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..... abovesaid this day of.....20

(Signature)

Before me,

Assistant Registrar,

Solemnly affirmed before me

by

who is identified before me

by

whom I personally known.

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.

³(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."

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

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