

Andhra Pradesh Civil Rules Of Practice And Circular Orders, 1990

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APPENDIX 1 :- APPENDIX A

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Andhra Pradesh Civil Rules Of Practice And Circular Orders, 1990

R.O.C No. 22/SO/69:- Whereas it is expedient to amend consolidate and bring up to date the civil rules of Practice and Circular Orders, 1905, and to incorporate therein the circular orders and administrative instructions issued from time to time for the guidance of all the subordinate Civil Courts in the State of Andhra Pradesh except the Court of Small Causes the following rules and circular orders are issued under the authority of the High Court. In

exercise of the powers conferred by Article 227 of the Constitution of India and Section 126 of the Code of Civil Procedure, 1908 and with the previous approval of the Governor of Andhra Pradesh the High Court of Andhra Pradesh hereby makes the following Rules and Circular orders for the guidance of Subordinate Civil Courts in the State of Andhra Pradesh, except the Court of small Causes.

CHAPTER 1 Preliminary

1. Short Title :-

These rules shall be called "The Civil Rules of Practice and Circular Orders."

2. Definitions :-

In these Rules, unless there is some thing repugnant to the subject or context;

(a) "Address for service" means the place appointed by a party, or his Advocate, at which service of summons, notice or other process may be made on such party;

(b) "Advocate" includes a pleader;

(c) "Application" includes execution application, execution petition, and interlocutory application, whether written or oral;

(d) "Code" means the Code of Civil Procedure, 1908 as amended from time to time;

(e) "Execution Petition" means a petition to the court for the execution of any decree or order;

(f) "Execution Application" means an application to the court made in a pending execution petition, and includes an application of transfer, of a decree.

(g) "First hearing" includes the hearing of a suit for settlement of issues and any adjournment there for.

(h) "High Court" means the High Court of Andhra Pradesh

(i) "Interim decree" means an decree declaring the rights and liabilities of the several parties and providing for the determination of the particular property or sum of money to be apportioned or paid to any party, or for otherwise giving effect to such declaration;.

(j) "Interlocutory application" means an application to the court in any suit, appeal or proceedings already instituted in such court, other than a proceeding for execution of a decree or order;

(k) "Original petition" means a petition whereby any proceeding other than a suit or appeal or proceedings in execution of a decree or order, is instituted in a court;

(l) "Proceeding" includes all documents presented to or filed in court by any party or commissioner or other officer of court, other than documents produced as evidence;

(m) "Verified" means verified in the manner provided by Order VI Rule 15 of the Code;

(n) "Other expression" all other expressions used herein shall have the respective meanings prescribed by the Code or the General Clauses Act, 1897.

1. R.S to part II, A.P.Gazette, dt.27.10.1983 at page 567 (Vide 1984 ALT (L.S) Page 45 (A.P Rule and Notifications).Note:- The figures printed in the brackets along with the rule number, indicate the Corresponding number of Old Rule.

3. (New) Sitting Of Courts :-

The Setting of court shall ordinarily commence not later than 11 A.M. and unless the work of the day is disposed of earlier the Court shall not rise before 5 p.m.; except for lunch on between 2 and 2.30 p.m.;

4. Judicial Work On Sunday :-

No case shall ordinarily be heard and no judicial act formally announced or done on a Sunday or other Public Holiday. Provided that the court may sit on a Sunday or other Public Holiday for the purpose of completing the examination of a witness or any other urgent proceeding then in progress which cannot be adjourned to the next working day.

5. Forms :-

The forms in Appendix III, Part-II, here to shall be used with such variations as Circumstances may require.

6. Reckoning Of Prescribed Day :-

In all cases in which any particular number of days, not expressed to be clear days, is prescribed by these rules, the same shall be reckoned exclusively of the last day, unless the last day falls on a Sunday, or other day on which the office of the Court is closed, in which case the time shall be reckoned exclusively of that day also, and of any other following day or days during which the office may continue to be closed.

7. Service Of Notice :-

(1) Except where otherwise provided by the Code, or these Rules, or any law for the time being in force, any notice, directed to be given to any party shall be in writing and may be served by the

party or his Advocate on the other party, or his Advocate personally, or be sending the same by post in a registered post cover "ACKNOWLEDGEMENT DUE, OR BY SPEED POST OR BY AN APPROVED COURIER SERVICE OR BY FAX MESSAGE OR BY ELECTRONIC MAIL SERVICE OR BY SUCH MEANS" to the address for service of the party or his Advocate.

(2) (a). Where the party is directed/permitted by an order of the court to take out summons /notices by Registered Post "acknowledgement due, OR By Speed post or by an approved Courier service or by Fax message or by electronic Mail service or by such means" , the PRESIDING OFFICER shall hand over summons/notices duly prepared and signed by the authorized Officer to the petitioner or his advocate for service on the other parties.

(b) The petitioner or his advocate shall file a Memo stating the mode of service by which he effected the service enclosing the acknowledgement card or returned postal covers or any other proof.

(3) The DISTRICT JUDGE shall prepare a panel of courier services for the courts situated at the District Head Quarters and separate panels for the courts situated outside the District Head Quarters for sending summons, notices, and other process by such courier service and such panels shall continue until further orders.

CHAPTER 2 Form of Proceedings

8. Form Of Complaints, Etc :-

All complaints, written Statements, applications affidavits, memoranda of appeal and other proceedings presented to the court, shall be written, type written or printed, fairly and legible on stamped paper or on substantial foolscap folio paper, with an outer margin of about two inches and an inner margin about one inch wide, and separate sheets shall be stitched together book wise. The writing or printing may be on both sides of the paper, and numbers shall be expressed in figures.

9. Cause - Title Of Complaint Etc :-

a. A complaint, or original petition, shall be headed with a cause-title, as in Form No. 1 The cause-title shall set out the name of the court, and the names of the parties, separately numbered, and described as plaintiffs and defendants or petitioners and respondents as the case may be.

b . Cause title of memorandum of appeal:- A memorandum of appeal shall be headed with a cause-title setting out the names of the courts to and from which the appeal is brought, the names of the parties, separately numbered and described as appellants and respondents, and also the full cause title of the suit or matter in the lower court, as in Form No. 2.

c. Cause - title of subsequent proceedings: - All proceedings, Subsequent to a plaint or original petition shall be headed with cause-title as in Form No. 1 and all proceedings subsequent to a memorandum of appeal shall be headed with a cause-title as in the first part of Form No. 2.

d. Description of contents:- Every proceedings shall also contain, immediately after the cause-title, a short description of its contents, as in Form Nos. 5 &6.

10. Names Etc. Of Parties :-

The full name, residence, and description of each party, and if such is the case, the fact that any party uses or is used in a representative character, shall be set out at the beginning of a plaint, original petition, or memorandum of appeal, as in Form No. 5 and need not be repeated in the subsequent proceedings in the same suit, appeal or matter.

11. Address For Service :-

a. Every pleading shall contain the address for service, which shall be within the local limits of the jurisdiction of the court in which the suit is filed or of the District Court in which the party ordinarily resides. The address for service shall contain particulars such as the Municipal or Panchayat number of the house, name of the street and locality.

b. A party who desired to change the address for service given by him as aforesaid shall file a verified petition and the court may direct the amendment of the record accordingly. Notice of every such petition be given to all the other parties to the suit.

c. The address so given shall be called the registered address of the party and shall, until duly changed as aforesaid, be deemed to be address of the party for the purpose of service of all processes in the suit or in any appeal from the decree or order therein made and for the purpose of execution.

12. Suits By Or Against Numerous Parties :-

a. An application under Order I, Rule 8 of the Code shall be supported by an affidavit stating the number or approximate

reside; that they have all the same interest in the subject-matter of the suit, and the nature of the said interest, and the best means of giving notice of the institution of the suit to the said parties, and the probable cost thereof. If the application is made by the plaintiff, it may be made in Form No. 10 and the estimated costs of giving notice of the institution of the suit shall at the same time be deposited in court.

b. The Plaint shall state that the plaintiff sues on behalf of himself and all other persons interested in the subject-matter of the suit, or sues the defendant as representing all persons so interested and the summons to the defendant shall contain the notice set forth in Form No. 11.

13. When Application Is Made By Defendant :-

If the application is made by a defendant, notice there of shall be given to all parties to the suit; and if permission is granted. The plaint shall be amended by interesting a statement that the defendant is which the leave of the court, sued as the representative of all persons interested in the subject - matter of the suit.

14. Proceedings In Respect Of Immovable Property :-

Every plaint, original petition and memorandum of appeal, in which relief is sought with respect to immovable property, shall state, as part of the description thereof the registration district, sub- district, the name of the village, Municipality or Corporation in which the property is situate, the survey number of the house number, if any, the market value of the property and the value for purpose the court-fee and jurisdiction as computed according to the provisions of the Andhra Pradesh Court Fees and Suits Valuation Act, 1956 and in cases where the court fee payable on the rental value, the annual rental value of the property for which it is let, and there shall be annexed there to a statement duly filled in and signed by the party of the particulars mentioned in Form No. 8 In the absence of the said particulars, the proceedings may be received but shall not be admitted or filed until the provisions of this rule have been complied with.

15. Leave To Sue :-

a. If under Section 20(b) of the Code, leave to institute a suit is required, the plaint shall contain a prayer that leave may be granted, and shall be accompanied by an affidavit stating the residences and occupations of the several defendants and the

reasons for instituting the suit in the court.

b. If leave to sue is granted, the summons to the defendant shall contain the notice set out in Form No. 9.

c. The Court may, in its discretion, issue notice of the application to the defendants before passing an order there on.

16. List Of Documents Filed Along With The Plaint :-

Every plaint shall at the foot thereof, contain a list, to be signed by the plaintiff or his advocate of the documents filed therewith, in Form No. 7 or a statement, signed as aforesaid, that no document is filed therewith.

17. Form Prescribed For List Filed Under Order XIII, Rule 1 :-

The list of documents, if any filed, by the parties under Order XIII, Rule 1 of the Code, shall be in Form No. 7 In the case of a document produced by a witness or person summoned to produce a document, the form shall be supplied by the party at whose instance the document was produced. The list as well as the documents shall be immediately entered in the general index.

18. Translation Of Document :-

Every document produced by a party or his witness not written in the language of the court or in English shall be accompanied by a correct translation of the document into the language of the court or in English. The translation is correct. If the party is not represented by an Advocate, the court shall have the translation certified by any person appointed by it in this behalf at the cost of the concerned party.

19. Note On Defaced Documents :-

When a document produced with any pleading appears to be defaced, torn, or in any way damaged, or where its condition or appearance required special notice, a note of its condition and appearance shall be made on the list of documents by the party producing the same and should be checked and initialed, if correct, by the receiving officer.

20. Presentation Of Proceedings :-

a. All plaints, written statements, application, and other proceedings and documents may be presented to or filed in court by delivering the same by the party in person or by his recognized agent or by his Advocate or by a duly registered clerk of the Advocate to the Chief Ministerial Officer of the court or such other officers as may be designated for the purpose by the Judge before

4.00 p.m. on any working day. Provided that in case where the limitation expires on the same day they may be received by a Judge even after 4.00 p.m.

b. The Officer to whom such documents were presented shall at once endorse on the documents the date of presentation, the value of the stamp fixed and if the proceedings, are thereby instituted, shall insert the serial number.

c. In case of paper bearing court fee stamps, he shall, if required issue a receipt in Form No. 17 in Appendix III - L to these rules.

d. Every plaint or proceeding presented to or filed in court shall be accompanied by as many copies on plain paper of the plaint or proceedings and the document referred to in Rule 16, as there are defendants or respondents unless the court otherwise dispenses with such copies of the documents by reason of their length or for any other sufficient reason.

21. Date Of Pleading :-

Every pleading or other document filed in a court shall bear the date on which the signature of the party is affixed, the date of its presentation and the date of its filing in Court.

22. Procedure On Presentation :-

a. On presentation of every plaint the same shall be entered in Register No. 17 in Appendix II, Part-II, Volume II and examined by the Chief Ministerial Officer of the Court.

b. If he finds that the plaint complies with all the requirements, he shall make an endorsement on the plaint Examined and may be registered with the date and his signature and placed before the Judge, The Chief Ministerial Officer shall also endorse on the plaint or proceedings if any caveat has been filed. If he thinks that the plaint shall be returned for presentation to the proper court or be rejected under Order VII Rule 11 or for any other person, he shall place the matter before the Judge for orders.

c. Subject to the provisions of sub-rule (2) any non-compliance with these rules or any clerical mistake may be required by the Chief Ministerial officer to be rectified. Any rectification so effected, shall be initialed and, dated by the party or his advocate making the same and the Chief Ministerial Officer shall note the number of corrections in the margin and shall initial and date the same.

In the event of such rectification not being made within the time specified, the Chief Ministerial Officer shall place the matter before the Judge for Orders.

23. Registration Of Complaint :-

Where, upon examination, the complaint is found to be in order, it shall be entered in the register of suits, and the Judge shall pass orders as to the issue of summons or otherwise.

24. Documents Or Proceedings Not To Be Sent By Post Or Telegraph :-

No document or proceeding required to be presented to, or filed in, Court. Which is sent by post or telegraph, shall be received or filed in Court.

Provided that in cases where² the Official Assignee or an Official Receiver does not intend to defend or contest any proceeding before a Court in which he is impleaded as party, he may inform the Court accordingly by a statement in writing in the form appropriate to the proceeding, and send it to the Court by post or personal messenger. Such statement shall form part of the record of the proceeding.

25. Connected Pleadings :-

Where two or more suits are in any way connected with each other, the party or his Advocate shall file a Memo describing the cases which are so connected.

26. Signature Of The Party On The Pleadings :-

1.The parties shall sign at the foot of the pleading and any one of them shall also sign at the end of each of the other pages. Provided that if impressed stamp papers are tacked on to a complaint for purposes of Court-fee, such papers may be signed either by the party or the Advocate concerned.

2.Verification of pleadings shall be made next below the paragraph claiming relief and also at the foot of the schedule. If any, appended thereto.

27. Adding Plaintiff Or Next Friend :-

If an application is made to add any person as plaintiff, or as the next friend of a plaintiff, he shall either appear in person, in which case his consent to be so added shall be recorded by the judge in writing or a written consent there to signed by him, and authenticated by a person authorised to take affidavits shall be filed in Court.

28. Amendment In Pleadings :-

An application for amendment made under Order I, Rule 103, Order VI, Rule 17, or Order XXII of the Code, shall also contain a prayer

for all consequential amendments. The Presiding Officer shall reject the application if it is not in accordance with the law or these rules. Provided that verbal corrections may at any time be made in pleadings with permission of the Court.

1. P. Dis. No. 202 of 1942 2. P. Dis. No. 612 of 1945

29. Legal Representatives On Record :-

a. When a party dies pendente lite a note to that effect shall be added against the name of the party and necessary consequential amendment in the body of the pleading shall also be made as prayed for.

b. When the heirs of a deceased party are substituted for him they shall be entered and numbered consecutively and described as the legal representatives of the deceased party.

CHAPTER 3 Advocates and Recognised Agent

30. Form Of Vakalat :-

Every Vakalat shall unless otherwise ordered by the Court, be in Form No. 12 and shall authorise the Advocate to appear in all execution and miscellaneous proceedings in the suit or matter subsequent to the final decree or order passed therein.

31. Appointment Of Advocate :-

a. Save as provided in sub-rule (3) of this rule, every Vakalatnama shall be executed or its execution attested before a judicial functionary, a Gazetted Officer, a member of the State Legislature or a member of Parliament or a member of the Gram Panchayat, Sarpanch, Upa Sarpanch constituted under the Andhra Pradesh Gram Panchayats Act, 1964, or a member of the Panchayat Samithi or Zilla Parishad, a Municipal Councilor, Village Headman or a retired Gazetted Officer receiving pension from the Government or before a Commissioned Military Officer or 1an Advocate either than the Advocate in whose favor the Vakalatnama is executed or appointed, made 2(or as defined in the Notaries act, 1952 (Act LIII of 1952) before any Sub- Registrar of the Registration Department who shall Subscribe his own signature with designation on the Vakalatnama in authentication of its execution of attestation.

b. When a vakalatnama is executed by any person who appears to the officer before whom it is executed, or the execution is attested to be illiterate, blind, or unacquainted with the language, in which the vakalatnama is written the officer shall certify that the vakalatnama was read, translated or explained in his presence to the executant, that he seemed to understand it, and that he made

his signature or mark, in the presence of the officer.

c. When the executants of a vakalatnama is himself a public officer of whose signature a court may take judicial notice, authentication on the vakalatnama may not be necessary.

d. A statement of the advocates address for service shall be endorsed on the vakalatnama and subscribed with his own signature by the advocate.

e. Where the attesting officer is not personally acquainted with the executant of a vakalatnama, the attesting officer shall mention the name and address of the person who identifies the executant and obtain his signature.

32. Party Appearing By Agent :-

a. When a party appears by any agent, other than an advocate, the agent shall, before making of or doing any appearance, application, or act, in or to the court, file in court the power of attorney, or written authority, thereunto authorizing him or a properly authenticated copy thereof together with an affidavit that the said authority still subsisting, or, in the case of agent carrying on a trade or business on behalf of a party, without a written authority, an affidavit stating the residence of his principal, the trade or business carried on by the agent on his behalf and principal, the trade or business carried on by the agent on his behalf and the connection of the same with the subject-matter of the suit, and that no other agent is expressly authorised to make or do such appearance, application, or act.

1. Ins. as per P. Dis. 464 of 1956. 2. . Ins. as per P. Dis. 464 of 1956

b. The Judge may thereupon record in writing that the agent is permitted to appear and act on behalf of the party; and unless and until the said permission is granted, no appearance, application, or act, of the agent shall be recognized by the Court.

33. Signing Of Verification By Agent :-

If any proceedings, which under any provision of law or these rules, is required to be signed or verified by a party, is signed or verified by any person on his behalf, a written authority in this behalf signed by the party shall be filed in court , together with an affidavit verifying the signature of the party, and stating the reason of his inability to sign or verify the proceedings and stating the means of knowledge or the facts set out in the proceeding of the person signing or verifying the same and that such person is a recognized agent of the party as defined by order III Rule 2 of the

Code and is duly authorized and competent so to do.

CHAPTER 4 Affidavits

34. Interpretation Of Words :-

The word affidavit in this chapter shall include any document required to be sworn and the words swear and sworn; shall include affirm and affirmed

35. Form :-

Every affidavit shall be drawn up in the first person and divided into paragraphs numbered consecutively and each paragraph as nearly as may be, shall be confined to a distinct portion of the subject. Every affidavit shall be written or typed or printed and stitched book wise. The deponent shall sign at the foot of each page of the affidavit. Note:- For forms of Oath and affirmation refer the Scheduled to the Indian Oaths Act 1969.

36. Description Of Deponent :-

Every affidavit shall be affidavit shall subscribe his full name, the name of his father age, place of residence and his trade or occupation.

37. Title Of Affidavits :-

Every person making an affidavit shall subscribe his full name, the name of his father, his age, place of residence and his trade or occupation.

38. Before Whom May Be Shorn :-

Affidavits intended for use in Judicial proceedings may be sworn before any court or Magistrate or a " Member of Nyaya Panchayat constituted under the A.P. Gram Panchayats Act, 1964, or a Sub-registrar, Nazir, or Deputy Nazir or a member of the State Legislature or a *Member of Parliament, or a Municipal Councilor or a Member of Zilla Parishad or any Gazetted officer in the service of the State Government or the Union Government or a Notary as defined in the Notaries Act, 1952, or a retired Gazetted Officer receiving pension from Government or a commissioned Military officer or a Advocate other than the Advocate who has been engaged in such proceeding or any Superintendent in the Office of the Commissioner for the Andhra Pradesh Hindu Religious institutions and charitable Endowments.

39. Statement Of Officer Before Whom Affidavit Is Sworn :-

The officer before whom an affidavit is sworn or affirmed shall state

the date on which, and the place where, the same is sworn or affirmed and sign his name and description at the end as in Form No. 14 ; otherwise the same shall not be filed or read in any matter without the leave of the court.

40. Interlineations, Alteration, Etc :-

No affidavit having in the Jurat or body there of any interlineations, alteration or erasure shall, without the leave of the court, be read or filed or made use, of unless the interlineations or alteration (other than by erasure) is authenticated by the initials of the officer taking the affidavit, nor in the case of an erasure unless the words or figures, appearing at the time of taking the affidavit to be written on the erasure, are rewritten and initialed in the margin of the affidavit by the officer taking it.

1. Newly inserted An officer may refuse to take an affidavit where, in his opinion, the interlineations or alterations, or erasures are so numerous as to render it necessary that the affidavit should be rewritten.

41. Deponent To Be Identified :-

Every person making an affidavit for use in the court shall if not personally known to the person before whom the affidavit is made, be identified by some one known to him, and the person before whom the affidavit is made shall state at the foot of the affidavits, the name, address, and description of the person by whom the identification was made

42. Identification Of A Purdanashin Woman Deponent :-

Where the deponent is purdanashin woman and has not appeared unveiled before whom the affidavit is made, she shall be identified by a person known to him and such person shall at the foot of the affidavit certify that the deponent was identified by him and shall sign his name giving his name and address.

43. Blind Or Illiterate Deponent :-

When an affidavit is sworn or affirmed by any persons who appears to the officer taking the affidavit to be illiterate, blind, or unacquainted with the language in which the affidavit is written the officer shall certify that the affidavit was read, translated or explained in his presence to the deponent, and that the deponent seemed to understand it and made his signature or mark in the presence of the officer, as in Form No. 15 otherwise the affidavit shall not be used in evidence: Provided that where the deponent, due to physical deformity or any other cause, is unable to sign or

affix his mark on the affidavit, such affidavit may be received in evidence, if the officer before whom the affidavit is subscribed certifies, that the contents of the affidavit were read over and explained to the deponent and admitted by him to be correct.

44. Filing :-

Before any affidavit is used it shall be filed in court but the Judge may, with the consent of both parties, or in case of urgency, allow any affidavit to be presented to the court and read on the hearing of an application.

45. Notice Of Filing :-

The Party filing an affidavit intended to be read in support of an application shall give not less than two days notice thereof to the other parties, who shall be entitled to inspect and obtain copies of the same, and to file counter-affidavits and shall give notice thereof to the applicant, who may inspect and obtain copies of the same; and file affidavits in reply but except with the leave of the court no further affidavit shall be filed or read. If any party fails to give notice of filing an affidavit the court may grant an adjournment of the hearing and order the party in default to pay the costs thereof.

46. Affidavits Not To Be Filed Without Proper Endorsement :-

No affidavit shall be filed in the court unless properly endorse with the number and title of the suit or matter, the name of the deponent, the date on which it is sworn and by whom and on whose behalf it is filed.

47. Description Of The Person Or Place :-

When in an affidavit any person is referred to, the correct name and address of such person and further description as may be sufficient for the purpose of the identification of such person, shall be given in the affidavit. When any place is referred to in an affidavit, it shall be correctly described.

48. Affidavit On Information And Belief :-

Every affidavit containing statements made on the information or belief of the deponent shall state the source or ground of the information or belief.

49. Affidavit Stating Matter Of Opinion :-

Every Affidavit stating any matter of opinion shall show the qualification of the deponent to express such opinion, by reference to the length of experience, acquaintance with the person or matter

as to which the opinion is expressed, or other means of knowledge of the deponent.

50. Striking Out Scandalous Matter :-

The Court may suo motu, or on application order to be struck out from any affidavit any matter with which is scandalous and may order payment of costs of the application, if any filed for that purpose.

51. Documents Referred To In Affidavit :-

Document referred to by affidavit shall be referred to as exhibits and shall be marked in the same manner as exhibits admitted by the court and shall bear the certificate in Form No. 16 which shall be signed by the officer before whom the affidavit is taken.

52. Cross Examination On Affidavit :-

The Court may at any time direct that any person shall attend to the cross-examination on his affidavit.

CHAPTER 5 INTERLOCUTORY PROCEEDINGS

53. Form Of Interlocutory Application :-

Interlocutory applications shall be headed with the cause title of the plaint, original petition, or appeal, as in Form No. 13.

54. Contents Of :-

Except where otherwise provided by these rules or by any law for the time being in force, an Interlocutory Application shall state the provision of law under which it is made and the order prayed for or relief sought in clear and precise terms. The application shall be signed by the applicant or his Advocate, who shall enter the date on which such signature is made every application in contravention of this rule, shall be returned for amendment or rejected.

55. Contents Of :-

There shall be separate application in respect of each distinct relief prayed for. When several reliefs are combined in one application, the court may direct the applicant to confine the application only to one of such reliefs unless the reliefs are consequential and to file a separate application in respect of each of the others.

56. May Rejected If Substantive Order Is Not Asked For :-

Every application which does not pray for a substantive order but prays merely, that any other application may be dismissed, and every application which prays for an order which ought to be

applied for on the day fixed for the hearing of any suit, appeal or matter, may be rejected with costs.

57. Out Of Order Petition :-

Whenever it is intended to move the application as an urgent (out of order) application, the copy of the application served on the Advocate or the party appearing on person shall contain an urgent application on the day specified in the endorsement.

58. Service Of Notice :-

1. Unless the court otherwise orders, notice of an interlocutory application shall be given to the other parties to the suit or matter or their Advocate not less than three days before the day appointed for the hearing of the application.

2. Such notice shall be served on the Advocate whenever the party appears by such Advocate.

3. Notice of the application may be served on a party not appearing by Advocate by registered post "ACKNOWLEDGEMENT DUE, OR BY SPEED POST

OR BY AN APPROVED COURIER SERVICE OR BY FAX MESSAGE OR BY ELECTRONIC MAIL SERVICE OR BY SUCH MEANS" to the address given in the pleading acknowledgement per-paid and in the event of its non- service on the party by means of summons to be delivered to the party or in the event of the party being absent or refusing to receive the same, affixture at his address.

4. Unless the court, otherwise orders, notice of Interlocutory application need not be given to a party, who having been served with the notice in the main suit, appeal or other proceedings, has not entered appearance or to a party to whom notice in the appeal has been dispensed with under the provisions of Rule 14 of Order XLI of the Code

59. Copies To Opposite Party :-

Every interlocutory application shall be supported by an affidavit and true copies of the application, affidavit and the documents, if any which the applicant intends to use or on which he intends to rely, shall be furnished to the opposite party or his advocate, unless otherwise ordered, not less than three clear days before the hearing date.

60. Proof Of Facts By Affidavit :-

Any fact required to be proved upon an interlocutory proceeding shall unless otherwise provided by these, rules, or ordered by the court, be provided by affidavit but the Judge may, in any case,

direct evidence to be given orally, and thereupon the evidence shall be recorded, and exhibits marked, in the same manner as in a suit and lists of the witnesses and exhibits shall be prepared and annexed to the judgment.

B-ORIGINAL PETITIONS

61. Original Petition Should State Act Or Authority Under Which It Is Presented :-

a. The Rules relating to suits shall mutatis mutandis apply to Original Petitions unless a contrary intention appears from the rules governing such petitions made under the Special Acts.

b. An original petition shall, in addition to the particulars required by rules, 9, 10, 11, also state the Act, or other authority, under which it is presented, as in Form Nos. 5 and 6. If it is not intended to serve any person with notice of the petitions, it shall be so sated, and the petition shall be headed, as in Form No. 6 but if the court directs any person to be made a party, the Cause-title shall be amended, and shall be forms No. 1.

c. Hearing: - Original Petitions shall be heard and determined in the same manner as original suits.

62. Applications Under Section 340, 341 Of The Code Of Criminal) Procedure :-

Every application made to a Civil Court under the provisions of Section 340, 341 and 343 of the code of Criminal Procedure shall be registered as the interlocutory application

63. Application For Transfer :-

An application for transfer of a suit, appeal or other proceeding from one court in another shall be made by original petition entitled in the matter of the pending suit, appeal or other proceeding as in Form No. 17 Notice of the application in Form No. 18 shall be issued and served on the other parties to the suit, appeal or other proceeding. Provided that if under Section 24 of the Code, the District Court transfers as suit, appeal or other proceeding of its own motion and without giving notice in the first instance, it shall record in writing its reasons for dispensing with such notice and shall direct the court from which it has been transferred to intimate the parties or their Advocates about the transfer and the date on which they should appear before the court to which it has been transferred.

64. Affidavit In Support :-

(1) Every application for transfer shall be supported by an affidavit stating the respective residences of the several parties to the suit, appeal or other proceeding the places in which the several portions of the subject-matter of such case are respectively situate, and the several jurisdictions within which the said residences and places are respectively situate, and nay other facts on which the application is based

(2) A separate application supported by an affidavit shall be presented in respect of each case of which a transfer is sought, and the court shall, in each case, record in writing its reason for the order.

65. Registering Suits Received By Transfer :-

The Courts to which a suit, appeal or other proceedings is transferred shall note the old number and the date of institution in the relevant register within brackets and when acknowledging the receipt of the records shall intimate to the court, from which the case.

CHAPTER 6 Posting of Cases

66. Preparation And Publication Of Special List :-

(1) On completion of the preliminary stages of suit or other matter, the court shall obtain the required information from the Advocates or parties to enable it to estimate the probable length of the hearing and then post in the hearing book to particular dates.

(2) When the cases so posted are called on the dates, the Advocates or the parties shall report whether there is any case of compromise or death of parties and the like Then a list known as the "Special List" of ready cases shall be prepared at the beginning of every month, For each day of the following Month, posting shall be made with sufficient number of contested suits. Uncontested suits and matter that can be expected to be heard in the day. This "special List" shall be published on the notice board of the court by the fifth day of each month. Between the fifth day and the tenth day any representation with the Advocates or the parties might have to make may be heard and necessary changes be made.

(3) The Final list for whole of the next month shall be published by the tenth of each month the thereafter. Short of the death of parties or similar compelling reasons, no adjournments be granted.

67. Cause - List :-

(1) Every court shall post on its notice board a cause-list of suits, petitions, applications, appeals and other matters to be heard on

the next working day setting out the serial number, short cause-title of each case and the names of the Advocates.

(2) Unless the Presiding Officer otherwise orders, the cases shall be called on the day and in the order in which they stand in the list.

68. Cases Ready To Be Posted According To Their Order :-

Unless the Judge otherwise orders, every case ready for disposal shall be posted and taken up according to its order on the file of the Court.

Exception :- (1) " Any suit or proceeding for the prosecution or the defence of which a person in the service of the government of the Union or of any state or a person subject to the Air Force Act, 1950 or the Army Act, 1950 or Navy Act, 1957 has obtained leave of absence, shall, on his application, be taken up and disposed of, as far as possible, within the period of such leave".

Exception:- (2) In order to clear off arrears and to save the time of the courts by reducing the number of applications to bring in the representatives of deceased parties, etc., batches of Suits and appeals pending in Civil Courts should be heard in future as soon as possible after they are filed, being posted before other suits and appeals which are ready for hearing.

Note:- For this purpose batch means five or more suits or appeals which will be governed by a single decision.

CHAPTER 7 Processes

69. Issue Of Summons Or Notice :-

(1) In any proceeding in which summons or notice is to be issued by the court to any person, the party presenting the plaint, memorandum of appeal, cross-objection, or application shall also bring into court along with it a duly stamped application for service together with a sufficient number of copies of the plaint, concise statement memorandum of appeal, cross-objection, or application and affidavit in support thereof for service on the party concerned along with the summons or notice. The copies above referred to shall show the date of presentation of the original and the name of Advocate, if any, who presented the same.

(2) The summons/notices shall be issued within 30 days from the date of institution of the suit.

(3) Where the Court directs the Service of Summons to the defendant either through Regd. Post acknowledgement due or by Speed Post or by an approved Courier Service or by Fax or Electronic Mail Service they shall be sent accordingly. Where the

service of summons is Ordered through a courier service such Summons shall be sent through a panel of courier service approved by the District Judge for his purpose

70. Parties To File Process Forms Duly Filled Up :-

(1) In all cases where processes of the nature of summonses or notices (including notice of an Interlocutory Application) have to be issued, the parties or their Advocates on whose behalf such summonses or notices are issued, shall file with their applications for the issue of processes, the appropriate forms of processes as prescribed in the Code or under those rules or any other Law applicable to the case, in duplicate legible filled up, together with the prescribed process fees. However the date of appearance and the date of the process shall be left blank.

(2) In the case of summons, the combined form as in Form No. 19 shall be used and summons in tact, leaving it to the court, after it has, determined the purpose for which the summons is to issue, to strike out the portions of the form which do not apply and thus convert the summons it to one as per Form No. 1 or 1-A or 2 of Appendix-B to the First Schedule to the Code of Civil Procedure.

(3) The forms shall not be accepted unless filled up in bold, clear and legible hand writing. The parties or their Advocates shall sign the forms in the left bottom corner, and will be responsible for the accuracy of the entries.

(4) Where orders for the issue of process are passed by the court, the date fixed for appearance will be inserted in the form and the process will be dated and signed by an officer of the court duly authorized.

(5) The necessary number of printed forms of process if available may be supplied to the parties or their Advocates shall sign the forms in the left bottom corner, and will be responsible for the accuracy of the entries.

(6) The Presiding Officer in his discretion direct in any particular case that the forms of process may be entirely filled up in the office of the court.

71. Contents Of Process :-

The Process issuing officer, before issuing a process, shall satisfy himself that full description of the persons for whom the process is intended of in respect of whom of whose person or property it is issued, is entered therein as will enable the process serve without risk of mistake to identify such person or property. When such description is not furnished by the person moving the court to issue

the process, the orders of the court shall forthwith be taken by the issuing officer.

72. Language Of Process :-

(1) The Processes of the Court shall be in the Language of the Court in the prescribed forms.

(2) Processes sent for service at any place where the language is different from that of the court issuing them shall be accompanied by translation in the language of such place or in English.

(3) Processes issued to Army, Navy or Air Force personnel shall be in English and if the forms in the language of the court are used, they shall be accompanied by translation in English.

73. Payment Of Process Fee :-

(1) Except is so far as is otherwise provided by any law or rule or ordered by the Court, no process shall be drawn up or issued for service until the prescribed fee has been paid in the form of court fee stamps.

(2) Where the Court permits the Plaintiff to effect Summons on the dependent under Order V Rule 9(A) of Civil Procedure Code no process fee shall be charged for the summons handed over to him

74. Process Sent To Or Received From Other Courts :-

(1) When a court sends a process for service to any court beyond its jurisdiction, it shall endorse on the process a certificate that the prescribed fee has been collected.

(2) When a process bearing a certificate that the prescribed fee has been collected is received by a court from another court in the Union of India and court shall cause to be served without further charge.

75. Process To Other Courts :-

Any process intended to be served by another court either within or without the State shall be sent direct to the Presiding Officer of the concerned court (not being the High Court) by designation and not to the Nazir or Deputy Nazir" The Court to which summons or other process has been sent for service shall make a return within the time fixed for the hearing of the case, stating whether service has been sent for service shall make a return within the time fixed for the hearing of the case, stating whether service has been effected or not and if not, the reasons for the non-service.

76. Process To Other Courts :-

(1) Every party who intends to appear and defend any suit, appeal

or original petition, shall, before the date fixed in the summons or notice served on him as the date of hearing file in Court a proceeding stating his address for service.

(2) Such address for service shall be within the local limits of the Court in which the suit, appeal or petition is filed, or of the District Court in which the party ordinarily resides.

(3) Where a party is not found at the address given by him for service and no gent or adult member of his family on which a notice or process can be served in person, a copy of the notice or process shall be affixed to the outer door of the house an such service shall be deemed to be as effectual as if the notice or process has been personally served.

(4) Where a party engages an Advocate, notices or processes for service on him shall be served in the manner prescribed by order III Rule-5 of the Code unless the Court directs service at the address for service given by the party.

(5) A party who desires to change the address for service given by him as aforesaid shall file a verified petition and the Court may direct the amendment of the record accordingly. Notice of every such petition shall be given to all the other parties to the suit.

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

(7) Nothing contained in this rule shall apply to the notice prescribed by Order XXI, Rule 22 of the Code of Civil Procedure, 1908.

77. Method Of Service :-

(1) The Serving Officer shall see that the person who accepts service of the process corresponds with the description given in the process. Where the signature in token of acceptance differs from the name given in the process, the discrepancy shall be explained.

(2) Where the process is served on some person, other than the person named therein, who accepts the process on his behalf, it shall be stated whether such person is an adult member of the family and living with him.

(3) Where service is accepted by an agent, it shall be stated whether such person is duly authorized to accept service.

(4) Where a person refuses to accept the process, the endorsement of refusal shall be attested by a witness, the reasons thereof, if any given and it shall be stated how the individual was identified.

(5) When a process is affixed owing to the absence of the individual

named therein, it shall be stated, if possible, both when he left home and when he is likely to return.

(6) Where service is refused by purdanashin ladies, it may be effected on any adult male member of the family.

(7) Where the process is served on the proposed guardian, the fact that the said guardian consents to act as guardian of the minors mentioned in the process shall be got endorsed on the notice by the guardian.

(8) Where the process for substituted service is issued process-servers shall carefully read the instructions given at the top of the process and effect service accordingly.

78. Return Of Service :-

(1) The Return of the Serving Officer shall state the manner in which the process was served and the place, and day, and month of service, and also whether he is personally acquainted with the person served, and if not by whom such persons was identified.

(2) If the person to be served refuses to sign the acknowledgement of service, the return shall state that he was informed of the nature and content of the process and, in the case of a plaint, that, upon applying to the officer of the court, he could obtain a copy, or concise statement of the contents of the plaint.

79. Verification Of Return :-

(1) The return of service shall be verified by an affidavit of the Serving Officer. All Nazirs and Deputy Nazirs are authorized to administer the oath to and to take the affirmation of any process-server.

(2) If the process-server is not personally acquainted with the person to be served, the return shall be supported by a verification at the for there of made and signed either by a Village Officer or by a respectable person who identifies him; and in the latter case, the full name and address of such person shall be set out in the verification.

80. Particulars On Return Of Service :-

If a process is affixed to the outer door of a house, in the absence of the person to be served, the serving officer shall make an affidavit as to the following matters; (a) The Nazirs return and the affidavit or examination on oath the Serving Officer;

(b) The record of further enquiry, if any, by such Court.

(c) In case, where the process has to be returned to any Court outside the state and the return is not in English or in the

Language of that Court the proceedings in Form No. 10 Appendix-B, Schedule-I of the Code with which it is sent back to the Court shall be accompanied by a translated of the return into English.

81. Service By Affixure :-

If a process is affixed to the outer door of a house, in the absence of the person to be served, the serving officer shall make an affidavit as to the following matters. (1) The Number of times and the dates and hours at which he went to the house:

(2) The attempts made by him to find the person to be served.

(3) Whether he had any, and what, reason to suppose that such person was within the house or its neighborhood, or endeavoring to evade service; and

(4) Whether any adult member of the family of the person to be served was residing with him and why the service could not be effected on such person.

82. Notice Where Summons Is Affixed To Outer Door :-

If a summons to a plaintiff is affixed to the outer door of the House, the serving officer shall affix therewith a notice that the defendant can, up on application to the officer of the court. If the summons has been sent by another court for service and the defendant does not, within fourteen days from the affixing of the summons apply for the said copy it shall be returned to the said court.

B.SERVICE OF PROCESSES ON PUBLIC OFFICERS AND SOLDIERS

83. Summons To Public Officers :-

A Summon or notice to a public officer, other than an officer in the Army, Navy, or Air Force, as defendant or as witness, shall ordinarily be sent for service to the head of the office in which the is employed in accordance with the provisions of Rule 27 of Order V. In fixing the time for the attendance of the Public Officer the fullest consideration may be given to the exigencies of the duties of the officer summoned.

Explanation :-

(1) Public Officer for the purpose of this chapter includes every employee in the service or pay of local authority or of Indian Railways or of a Corporation engaged in any trade or industry which is established by a central or State Act or of a Government Company as defined in section 617 of the Companies Act.

(2) The summons or notice to all employees other than those of the Government and Quasi Government Company as defined in Section 617 of the Companies Act.

84. Summons To Soldiers :-

(1) A summons to a Public Officer or other employee in the Army, Navy or Air Force of the Union of India as Defendant or as witness, shall be sent for service to his commanding officer in accordance with the provisions of the Rule 28 of Order V. In such cases, sufficient time shall be given to admit of arrangements being made for the relief of the person summoned.

(2) The summons shall contain adequate particular of the person summoned including the name of the unit and its postal address. If the actual location of the unit, engaged in operational rule, is not divulged for security reasons then the summons may be addressed as "care of New Delhi, 56 Army Post Office".

C-SERVICE OF PROCESS ON THE MEMBERS OF PARLIAMENT AND OF THE STATE LEGISLATURE

85. Process To Member Of Parliament :-

No summons or other process issued against Member of Parliament or of the State Legislature shall be sent for service to the Presiding Officer of the House or the Secretariat of the Parliament or of the State Legislature. Such summons or process shall be served direct, upon the Member outside the precincts of the House of Parliament or of State Legislature as the case may be: Provided, that in case of urgency such summons or process may be served on any Member within the precincts of the House after obtaining the permission of the Speaker or the Chairman as the case may be.

86. Letter Or Request :-

The provision of Order V, Rule 30 of the Code of Civil Procedure allowing the substitution of a letter for a summons shall be applied in the case of all Judicial Officers, Justices of the Peace, Presiding Officers of Parliament or State Legislature or Chairmen of Committees there of or any other person who is in the opinion of the Court, of a rank entitling him to such a mark of consideration.

D-SERVICE OF PROCESS AND THROUGH FOREIGN COURTS
SERVICE OUTSIDE INDIA

87. Process For Service By Foreign Courts :-

(1) Every process to be issued for service in a country outside the Union of India shall be drawn up in proper form in English, Type - written legibly, signed by the Judge, properly addressed and sealed. All Documents to accompany the process shall be translated in the language of the country concerned or in English.

(2) The Original duplicate of every process should be marked

respectively with the words "For return" and "For Service" and the courts issuing the processes shall take special care to obtain and set out in each process as full and exact a description of the person to be served with address correctly spelt in full detail.

(3) The Court shall take care that the time fixed for appearance or returnable date be such to enable the process be served and the person served to do what is required of him, due regard being had to the distance and the channel through which the process has to pass.

88. Deposit Of Express :-

Before issue of a process to any court outside India, the court issuing the process shall require the party, at whose instance the process is issued, to pay such fee for service as is required by the court to which the process is to be sent or as prescribed by the Government or by any other law or rule made for the purpose. In the case of summons to witnesses, a reasonable traveling and other expenses shall also be required to be deposited in advance.

SERVICE IN PAKISTAN

89. Service On The Public Officer :-

(1) Where the defendant is a Public Officer (not belonging to the Pakistan Army, Navy or Air force serving in connection with the affairs of Pakistan or is an employee in the Railways in Pakistan the summons may be sent for service to the Secretary to the Government of Pakistan in the Ministry of the Interior.

(2) Where such defendant is serving in connection with the affairs, of any other Government in Pakistan or under any local authority in Pakistan the summons may be, sent to the Home Secretary to the Government, or as the case may be, to the Home Secretary to the Government within whose territory the local authority has its jurisdiction.

90. Service On The Defendant :-

The summons and other processes issued by any Civil Court intended for service on a person, other than a Public Officer in Pakistan may be sent direct to the court (not being the High Court) in Pakistan under whose jurisdiction he is residing.

SERVICE OF FOREIGN PROCESSES IN THE STATE

91. Process Of Pakistani Court :-

The summons and other processes issued by any Civil or Revenue Court in Pakistan for service on any person residing within jurisdiction of the High Court of Andhra Pradesh and sent to any

Civil Court having jurisdiction in the place where such person resides, shall be served by such Civil Court as if they were issued by the Indian Courts and the return of service shall be sent direct to the issuing court in Pakistan.

92. Processes Of Other Countries :-

(1) The provisions of the Code as to service within India of the processes of Court situated beyond the limits of India shall apply not only to summonses to appear and answer but also to summonses to give evidence or to produce documents or other material objects.

(2) In case where there is a reciprocal arrangement under Section 29 of the Code the processes of other countries intended for service on any person within the Jurisdiction over the place where such person resides shall be served according to the procedure laid down in the reciprocal arrangement and if no such procedure is laid down and also in cases where there is no reciprocal arrangement, they shall be served in the manner prescribed by the Code the these rules and the return of service shall be sent in accordance with the said procedure, if any, or directs to the issuing court in the absence of such procedure.

CHAPTER 8 Witnesses

93. Summonses To Witnesses :-

(1) (a). A party who desires the attendance of any witness before the Court, or a Commissioner appointed to take evidence, shall bring into the Court, a list in Form No. 20 of the persons whose attendance he requires, stating the full name, residence and description of each person and whether he is required to give evidence as an Expert or otherwise or to produce a document, and in the latter case, specifying the date if any, and description of the document so as to identify it.

(b) Summons referred to in Sub Rule (1) may be obtained by the parties within Five days of presenting the list of Witnesses.

(2) The Party shall with such list, deposit into Court the prescribed fees WHICH SHALL NOT BE LATER THAN SEVEN DAYS FROM THE DATE OF MAKING APPLICATION for service of summons and the total amount of the allowance to which the said persons are entitled for traveling attendance at the Court and, in case of an Expert or a Scientific witness qualifying to give evidence the special fees and allowances to which such witnesses are entitled.

94. Classes Of Witnesses :-

- (1) Ordinary witnesses shall be classed into three classes.
 - (a) First Class persons whose annual income is Rs. 20,000/- and above, Class I employees of the government who are required to attend the court in their private capacity.
 - (b) Second Class.
- (2) The Allowances payable to the ordinary witnesses shall be calculated according to the scale set out below:-
- (3) In special cases where the rule works hardship it shall be at the discretion of the presiding Judge to allow witness, such additional sum as he may consider reasonable to cover bona fide expenses incurred by him.
- (4) Where the witness resides at the Headquarters of the Court, the presiding Judges may allow reasonable hire for conveyance in accordance with status of the witness.
- (5) Witness produced under the warrant of arrest shall be paid subsistence allowance at the rate allowed to the Judgment debtors.

Class of Witnesses	Traveling Allowances				Allowances for subsistence and other expenses not exceeding per diem
	By Rail	By Public Motor Service	By Road	By sea or Canal	
(1)	(2)	(3)	(4)	(5)	(6)
I Class	First Class	Deluxe fare or first class or higher class express	Rs. 0.60 per kilometer where public conveyance is not available.	Actual expenses of passage	Rs. 10.00
II Class	Second Class	Express or ordinary class	0.30 per kilometer where public conveyance is not available	Do	6.00

95. Numbering Of Witnesses :-

- (1) The witnesses examined for plaintiff or petitioner shall be numbered consecutively in the order in which they are examined and be referred to as P.W.1.P.W.2 and so on.
- (2) Witnesses examined for defendant or opponent shall, similarly, be numbered as D.W.12.D.W.2 and so on.
- (3) Where there are several plaintiffs or defendants, the witnesses called by each party shall not be numbered separately but continuously, as if all had been called by single plaintiff or defendant.

(4) Witnesses examined as Court witnesses shall be indicated as C.W and be serially numbered in the order in which they are examined.

96. Witness Given Up :-

If the party at the trial dispenses with the examination of any witness who is in attendance, the party or his advocate shall sign and file a memo into Court to the effect that the witness has been given up.

B-ALLOWANCES TO OFFICIAL WITNESSES

97. Allowances Of Public Officers :-

(1) In case where a Public Officers is summoned as a witness in a suit which the government is a party the total amount of allowances to be deposited by the party, other than the Government, applying for summons shall be in accordance with order XVI Rule 4(A) of the Code.

(2) In case where an employee of the Central Government or Railways is summoned in his official capacity as a witness in a suit to which the Government is not a party the total amount of allowances to be deposited by the party applying for summons shall be in accordance with Order XVI, Rule 4-B of the Code.

98. Certificate Of Allowance :-

(1) The Public Officer attending the court as a witness shall produce a certificate duly signed by the Head of Office showing the rules of traveling and other allowances admissible to him as for a journey on tour as required in Rule 4-B(2) of Order XVI of the Code.

(2) Such Officer shall be issued a certificate by the Court that he has attended in his official capacity stating the date of his appearance, the period during which he has attended the Court and that he received no payment from the court.

C-ALLOWANCES TO EXPERT OR SCIENTIFIC WITNESSES

99. Remuneration To Expert Or Scientific Witnesses :-

Where an Expert or Scientific witness other than the Government Examiner of Questioned Documents is summoned, he may be allowed such fees not less than Rs. 10, or more than Rs. 200 as the court may fix, and such allowance not less than Rs. 10 or more than Rs. 30 per diem as the court may fix for attending the trial of hearing. In addition, the witness shall also be entitled to the traveling allowances prescribed for ordinary witness of his class

100. Expert Evidence :-

(1) Where a party desires the examination of a finger print or handwriting or other disputed document by the Government Examiner of Questioned Documents at Hyderabad or Simla as the case may be, that party shall deposit into the court such amount as may be prescribed by the Government from time to time for the purpose including the traveling expenses.

(2) The party or his Advocate desiring the Experts opinion shall file in the court a memo of instructions in duplicate detailing the writings or finger prints disputed and admitted and points on which opinion is required.

(3) All Exhibits forwarded to the expert for his opinion shall be sent by registered post and not by ordinary post.

CHAPTER 9 Trial of suits

101. Application For Directions :-

Any party may, at the first hearing, apply to the Court for directions or the Court may, suo motu issue directions as to any of the following matters:

(1) The filing of a written statement by any party, stating the pleas raised by him or further and better particulars thereof :

(2) Adding or striking out parties:

(3) Discovery of documents and interrogatories:

(4) Inspection or production of any document or public record:

(5) Issue of a commission to examine witnesses, or for any other purpose.

(6) Reference to an arbitrator:

(7) Any other matter or proceeding necessary to be considered or taken prior to the trial of the suit.

Unless the court otherwise orders, not less than three days notice of such application and of any affidavit filed in support thereof, shall be given by the applicant to the other parties to the suit.

102. Production Of Documents :-

(1) (a) All the parties including defendants shall produce along with a list at or before the settlement of issues in the suit, all the documentary evidence of every description in their possession or power on which they intend to rely and which has not already been filed in the court. The said list shall be in Form No. 7 and shall be signed and verified by the party filing the same or his advocate and a copy of the list together with a copy of each of the documents shall be served on the other side before filing in the court unless otherwise ordered by the Court.

(b) ALL THE PARTIES INCLUDING DEFENDANTS OR THEIR ADVOCATES SHALL PRODUCE ON OR BEFORE THE SETTLEMENT OF ISSUES, ALL THE OTHER DOCUMENTARY EVIDENCE IN ORIGINAL WHETHER THE COPIES THEREOF HAVE BEEN FILED ALONG WITH PLAINT OR WRITTEN STATEMENT.

(2) The Court shall not ordinarily receive any documentary evidence in possession or power of any party which should have been but has not been produced on the due date, except in exceptional circumstances and good cause is shown for the default.

103. Examination Of Parties Etc :-

The courts, before forming issues shall, as far as expedient follow the essential preliminaries contained in Orders X, XI and XII of the Code which gives the Court the extended issues in the matter of examination of parties discovery, and inspection and obtaining admissions at appropriate stages. In comparatively big and complicated cases the court may, after the documents have been lodged in the court, allow at least one date for the aforesaid purposes.

104. Interrogatories :-

(8) A party who desires to administer interrogatories to any other party, shall, on presenting or making his application for leave to deliver the same, bring into court two copies of the proposed interrogatories, and the fees prescribed for service of processes. If leave is granted, one of the said copies shall be filed on record and his objection in his affidavit in answer to the interrogatories.

(9) If a party objects to answer any interrogatory he shall state briefly the grounds of his objection in his affidavit in answer to the interrogatories.

105. Application Of Provisions :-

The presiding officers shall invariably frame the issues by themselves after perusing the pleadings and documents and after obtaining relevant information from the parties. The provisions of Rules 1 and 2 of Order X Rule 1(5) of Order XIV shall be used extensively and the provisions relating to discovery and inspection and admission of documents in order XI, XII and XIII at appropriate places as frequently as possible.

106. Framing Of Issues :-

In framing of issues the court shall proceed as follows:- (1) Every material proposition of fact and every proposition of law, which is affirmed by the one side and denied by the other, shall be made

the subject of a separate issue.

(2) Every issue of fact shall be so framed as to indicate on whom the burden of proof lies.

(3) Every issue of law shall be so framed as to indicate, either by a statement of admitted or alleged facts, or by reference to the pleadings or some documents mentioned there I, the precise question of law to be decided.

(4) No proposition of fact which is not itself a material proposition but is relevant only as ending to prove a material proposition shall be, made subject of an issue.

(5) No Question regarding admissibility of evidence shall be made subject of an issue.

107. Form Of Issues :-

The issues framed by the court and any order passed upon any application under Rule 101 shall be drawn up in Form No. 21 and shall form part of the record in the suit; and all parties shall be entitled to inspect the same and to obtain copies thereof.

108. Adjournment To Be To A Day Certain :-

(1). On the date finally fixed for hearing of a case , the trial shall begin and the evidence of witnesses be recorded from day to day until the trial is completed

(2). All adjournments shall be to a day certain, as far as possible, and the day shall be fixed with regard to the convenience of the parties and the business of the court. Adjournments shall not ordinarily be granted except for really good and sufficient cause.

(3). Upon an application for an adjournment, the court shall consider the interests of all parties, the particular circumstances of the case and the business of the court posted for that day. The absence of the Advocate the party or want of preparation on his part, whether arising from insufficient instructions, or otherwise, shall not of itself be a sufficient cause for an adjournment. The court shall invariably record the reasons for adjournment. and no such adjournment shall be granted more than three times to the party during hearing of the suit.

109. Notice Of Adjournment :-

a. Any party desiring an adjournment may give notice in writing to the other party,, or his advocate, of his intention to apply therefore in advance before the date fixed for hearing.

b. Any party who desires that the hearing may be advanced, may apply therefore by Interlocutory Application of which notice shall be

given to the other party.

c. The Party served with notice may give to the other party, or his Advocate, a notice in writing that he consents to, or will oppose such adjournment or advancement.

d. Every application for adjournment or advancement of hearing of a case shall be made as soon as the court sits for the day. The courts shall pass orders of adjournment during call work while setting the work for the day.

110. Costs Of Adjournment :-

Except where an adjournment is necessitated by the business of the Court, or by the act or default of any other party and party desiring an adjournment may be ordered to pay the costs thereof, including the expenses of re-summoning the witnesses if any, and the fee of the Advocate of the other party.

111. Proceedings Not To Be Adjourned Sine Die Or Truck Off The File :-

No suit, appeal matter, or proceeding shall, under any circumstances whatever, be adjourned sine die or struck off the file; and if, by inadvertence, a day certain for the further hearing is not fixed by the court, or a case is ordered to be struck off the file, the case shall be posted and come on for hearing one month from the day on which it was before the court, or, if, the court is then closed. On the next day thereafter on which the court is sitting; Provided that in a suit for partition in which preliminary decree has been passed, the court may adjourn the proceedings, sine die, with liberty any of the parties to whom shares have been allotted to apply for the passing of a final decree.

112. Adjournment In Consequence Of Application For Commission :-

If an application for the issue of a commission to examine a witness, to with respect of any other matter mentioned in Rule 101 is made subsequently to the first hearing, and an adjournment of the final hearing is prayed, the adjournment shall not be allowed, unless it is made to appear to the court that the application could not, or ought not to have been made at the first hearing.

113. Evidence :-

(1) At the top of every sheet used for recording evidence shall be written the name of the witness, his fathers name, age, residence and occupation, the number of the witness and the case number.

(2) All additions, alterations, etc., in the deposition shall be

attested by the presiding Judge.

Note:- Where the evidence is taken down in the presence and under the personal direction and superintendence of the Judge or from the dictation of the Judge directly on a type writer and Judge shall sign or initial each page as soon as it is completed.

(3) Whenever the court consider it necessary to appoint a commissioner for recording the evidence (cross examination or re-examination) of witness or witnesses whose evidence (Examination in chief by an affidavit) has already been filed in the Court. The court may appoint a commissioner for recording evidence of witness/witnesses from a panel prepared for this purpose on rotation basis.

(4) The court for the reason to be recorded in writings may however appoint an advocate or retired judicial officer as a commissioner where a commissioner from the panel is not available for recording evidence.

(5) (a) The District Judge shall prepare a panel of commissioners for recording of evidence of witnesses under order XVIII Rule 4 of C.P.C for all the courts situated at the District Head Quarters.

(b) The Additional District Sessions Judge/Senior Civil Judge/Junior Civil Judge of the Court situated outside the Head Quarters shall prepared panels of commissioners for their courts with the approval of the District Judge. Where there are more than one court at a station out side the District Head Quarters, a common panel of the Commissioners shall be prepared for all the courts by the senior most judge of the station with the approval of the district Judge.

(c) The panel of commissioners shall be prepared from the following categories after obtaining their willingness.

(i) advocates having sufficient experience at the Bar and practicing in the courts..

(ii) Any retired District Judge/Sr.Civil Judge/Jr.Civil Judge.

6) SITTINGS OF THE COMMISSIONER:

a) The Commissioner shall complete the recording of the evidence(Cross examination and reexamination) of winess/witneses and shall submit the evidence recorded by him along with a report to the Court on or before the date fixed by the Court, which shall not normally be beyond / Sixty days.

b) The sittings of the Commissioner for recording the evidence shall be within the premises of the Court or at any place directed by the Court.

7. MARKING AND CERTIFYING OF EXHIBITS:

a) Where a party/witness wants to rely on a document which has

already been filed in the Court, the same shall be referred and identified by its Serial number, description, and the date as given in the list of document filed in the Court.

b) The party in his Affidavit shall list out the documents referred in the Affidavit with its Sl.No. Description and date in the last para of the Affidavit.

c) The Court shall consider the admissibility of the documents, referred in the Affidavit of Examination-in-Chief and endorse on the documents, if admitted in evidence, the following particulars Viz.,

i) The number and title of the suit.

ii) The name of the person who filed the document and the Exhibit number given by the court.

iii) The date on which it was produced.

iv) The Statement of its having been admitted. And the endorsement shall be signed or initialed by the Judge.

d) Where any document is not admitted there shall be endorsement on the document that it has not been admitted and the endorsement shall be signed or initialed by the Judge

e) Where the Court decides to admit a document subject to objection, the Court shall make an endorsement to that effect on the document and give an Exhibit Number.

f) The Court shall note the corresponding Exhibit numbers against the entries of the documents in the list given in the last para of the Affidavit.

g) Where documents are produced for Cross Examination of a Witness of the other party or where a document is handed over to a witness in the Cross-examination to refresh his memory, the Commissioner shall mark them as Exhibits for identification.

8. Handing the Original Record to the Commissioner; The Court shall hand over the original record with pagination under proper receipt to the Commissioner keeping the original proceedings sheet of the court proceedings and duplicate plaint, copy of written statement and Xerox copies of the documents etc., with the Court.

9. Register of Commissioner:

The Court shall maintain a separate Register of Commissioners appointed under Order XVIII Rule 4 of Civil Procedure Code.

114. Translation Of Evidence :-

Where a witness gives evidence in a language not understood by the Court, the court may get the evidence translated by an interpreter and pay him reasonable fees for his services: the costs being borne by the party calling the witness in the first instance

and being charged as costs in the suit.

115. Marking Of Exhibits :-

- a. Exhibits admitted in evidence shall be marked as follows:
 - (i) If filed by the defendant or one of several plaintiffs, with the capital letter A followed by a numeral A1,A2,A3 etc.
 - (ii) If filed by the defendant or one of several defendants with the capital letter "B" followed by a numeral, B1,B2,B3 etc.
 - (iii) If court exhibits with the capital letter C followed by a numeral C1,C2,C3 etc.,
 - (iv) If third party exhibits, with the capital letter X followed by a numeral X1,X2,X3 etc.,
- b. The exhibits filed by the several plaintiffs or defendants shall be marked consecutively.
- c. If in a preceeding subsequent to the trial of a suit or matter, further exhibits are admitted in evidence, they shall be marked in accordance with the above scheme with numbers consecutive to the number on the last Exhibit previously filed.

116. B-Diary And Judges Note :-

- a. The court shall maintain B-Diary in all contested Original suits, small Cause Suits and Execution petitions in Civil Miscellaneous Form Nos. 47, 46 and 49 respectively prescribed in Appendix-III-L of Volume II, furnishing full information as to the several steps taken in the trial or execution.
- b. The Court shall make a note, in the proper order of time, of all material incidents such as the questions of admissibility of evidence and all other questions incidentally raised and decided in the ordinary course of trial so that the Appellate Court may have a complete record of such matters as well as of the evidence taken.

CHAPTER 10 Documents

117. Inspection Of Documents By Party :-

- a. A party or his advocate shall be at liberty to inspect any document recited or referred to in a plaint or written statement, and filed in court therewith
- b. The party or his Advocate desiring to inspect any proceeding filed in court by him or any other party or a commissioner or officer of court, in the suit, appeal or matter, to which the proceeding of which inspection is required and inspection will be allowed with out the payment of any fees, during the pendency of such suit, appeal or matter.

Explanation:- for the purpose of this rule the advocates appointed

by the various sailors, Soldiers and Airmens Boards on behalf of the soldier litigants shall be deemed to be the Advocates of the concerned soldier litigants even if they hold on Vakalat from them.

118. Inspection Of Documents By Strangers :-

An application for inspection, pr copies of records or documents of, or in the custody of a court other than records or documents filed in a suit, appeal or matter, to which the applicant is a party, shall be made to the said court by an application, entitled in the suit, appeal, or matter in which the records or documents are filed, and specifying the particular records or documents, of which inspection is, or copies are required, by reference as far as possible to the nature, date and the date of filing of and the parties, to each record or document. The application shall be supported by affidavit stating whether the applicant has any, and what interest in the subjectmatter of the document or of the proceeding in which the record or document is filed, the purpose for which inspection or copy is required; and if the same is required for the purpose of an intended or pending proceeding; the nature of the said proceeding, and the relevancy of the record or document to the case of the applicant.

119. Notice Of Application For Inspection :-

The court, may, in its discretion, cause notice of the application be given to the parties to the said proceedings; and where such notice is given, the provisions of the Code and of these rules with respect to summons to a defendant, shall apply to the said notice.

120. Consent To Inspect Of Obtain Copy :-

The Court shall not grant leave to inspect, or to obtain a copy of, any record or to obtain a copy of, any record or document produced by a person not a party to the proceedings in which the same is filed, or to discovery of which any person is entitled to object, except in either case with the written consent of such person.

121. Inspection And Fees For Same :-

If a leave to inspection is granted, the inspection of the record shall be made in the presence of Record-keeper or of a responsible official of the court designated for the purpose by the Presiding Judge and the fees for inspection, except where an inspection is allowed fee, shall be Rs. 1-25 Ps. For every hour or part thereof during which the court official is engaged and shall be paid by the Court fee stamps affixed to the application.

122. Extracts Not To Be Taken :-

a. The payment of inspection fees shall entitle the applicant to peruse any document or record specified in his application and the inspection of which has been allowed by the court or have it read to him. He may make a short memorandum of the date and nature of any document in the record so as to enable him to describe it sufficiently in case a copy is required but he shall not be entitled to make a copy of the document or part of the document or verbatim extracts to make a copy of the document or verbatim extracts therefore. If he requires copies, he may apply for them as provided in the rules for certified copies.

b. When a person is entitled to inspect a proceeding or document, the search there of shall be made by the officer of the court; and such person shall be allowed to peruse and make a short memorandum as laid down in sub-rule (1) above.

123. Search Fee :-

On every application for inspection or for copy document or record, there shall be paid (in court-fee stamps) in addition to the usual fee on such application an additional fee of Rs. 2 for search of the document or record. Provided that no such fee need be paid by a party to the suit or proceeding where the application for inspection or for copy is made in a suit or proceeding which is pending disposal on the date of the application, or which has been disposed of within one year prior to the date of application:

Explanation:- For the purpose of this rule a suit shall be treated as pending till a final decree, if any, is passed therein, and an appeal shall be deemed to be a continuation of the suit. For the purpose of this rule, only one search fee need be paid for all documents that have come into the custody of the court relating to the same suit or proceeding, whether exhibited or not, and a document shall be deemed to be of the date of suit or proceeding of which it forms part of the record.

If the proceeding or document is not found on record, the applicant shall be entitled to a certificate to that effect, free of cost.

124. Inspection Of Exhibits :-

If any party or his advocate desires to inspect any exhibit, he shall do so in open court, at the hearing of the suit or matter; provided that with the leave of the judge, such inspection may be had in the presence of an officer of the court, to be named by the Judge.

B-COPIES OF PROCEEDINGS TO BEURNISHED BY PARTIES TO EACH OTHER

125. Furnishing Of Copies To Other Party :-

A party or advocate, filing any proceeding shall furnish free charge a copy of the same to each party appearing by a separate advocate.

126. Name And Address For Service To Be Endorsed On Copy :-

The name and address for service of the party or advocate by whom any copy is furnished shall be endorsed thereon, and the party or a advocate shall be answerable for the same being a true copy of the original, or of a certified copy of the original, of which it purports to be copy, as the case may be.

127. Refusal Or Neglect To Furnish Copy :-

In case any party or advocate either refused or neglects to furnished the copy, the person entitled to the copy shall be at liberty to procure a certified copy from the court and in such case the party in default shall unless the Judge otherwise orders be liable for the costs of procuring the same.

C-PRODUCTION OF RECORDS

128. Production Of Records In The Custody Of A Court :-

a. An application for the production of records in the custody of a court shall specify the particular document required to be produced. Unless it is made to appear to the court that the production of the original documents is necessary, the party shall be required to obtain and file copies there of and the original shall not be sent for. If the court dispenses with the affidavit mentioned in Order XIII, Rule 10(2) of the Code of Civil Procedure it shall record in writing the reasons for so doing.

b. When a court finds it necessary to require the production of the records of another court, either within or outside the State, it shall address a Letter of Request as in Form No. 22 direct to the Presiding Judge of that Court.

c. Where the document to be sent for by a court either from its own records or from those of another court under Order XIII, Rule 10, is an account Book, or other has to be in the custody of a court and belongs to a person other than a party at whose instance it is sent for the court may require the party to deposit in court before the letter of request is issued, such sum as it may consider necessary to meet the estimated cost of making a copy of the document when produced..

d. When the letter of request is to be issued by the court itself

acting of its own motion it shall be open to the court to call upon either party to make the deposit as aforesaid.

e. On the production of the document in compliance with the letter of request, the court shall cause a notice to be affixed to the notice board that the document has been received and that the parties may apply to the court for inspection of the same. The court shall not grant inspection to either party, unless it is satisfied that the application is made with the consent of the person to whom the document belongs. After the document has been admitted in evidence the court shall, unless it considers it necessary to retain the original, direct the parties to specify the portion or portions thereof to which they respectively rely, and require a copy to be made of the same at the expense of the party requiring such portion, and shall thereafter, with all convenient speed, return the original to the court from which it was received, retaining the copies as part of the record.

129. Production Of Records In The Custody Of A Public Officer Other Than A Court :-

a. A summons for the production of records in the custody of the Public Officer other than a court shall be in Form No. 23 and shall be addressed to the Head of the office concerned and in the case of a summons to a District Registrar or a Sub-Registrar of Assurances, it shall be addressed to the Registrar or Sub- Registrar in whose office, or sub-office, as the case may be, the required records are kept.

Provided that, where the summons is for the production of village accounts, including filed measurement books, such summons shall be addressed to the Tahsildar or the Deputy Tahsildar in independent charge as the case may be.

Provided further that when the summons is for production of records in the custody of high dignitaries like the Speaker of the Lok-Sabha or State Legislative Council etc., the summons shall be in the form of a letter of request in form No. 23-A.

b. Every application for such summons shall be made by an affidavit setting out (1) the document or documents the production of which is required; (2) the relevancy of the document or documents; and (3) in cases where the production of a certified copy or copies and the result of such application.

c. No court shall issue such summons unless it considers the production of the original necessary or is satisfied that the application for a certified copy has been duly made and has not

been granted. The court shall in every case record its reasons in writing and shall require the applicant to deposit in court, before the summons is issued, to abide by the order of the court, such sum as it may consider necessary to meet the estimated cost of making a copy of the document when produced

(4) Unless the court requires the production of the original, every such summons to a public officer shall state that he is at liberty to produce, instead of the original, a copy certified in the manner prescribed by section 76 of the Evidence Act.

(5) Nothing in the above rules shall prevent a court of its own motion from issuing a summons for the production of public records or other documents in the custody of Public Officer in accordance with sub-rule (1), if it thinks it necessary for the ends of justice to do so. The court shall, in every case, record its reasons in writing.

130. Copies Of Public Documents :-

When a party to a suit or proceeding seeks to obtain a certified copy of a public document for being filed into court in that suit or proceeding, he may apply to the court wherein the suit or proceeding, is pending for the issue of a certificate to enable him to obtain such copy from the appropriate authority, and the court shall, on being Prima-facie satisfied that the production of the certified copy in the suit or proceeding is necessary, issue to the applicant a certificate to that effect.

D- RETURN OF DOCUMENTS

131. Return Of Documents :-

(1) Applications for the return of documents filed in court shall be made to the court in which they were originally filed. If any document has been transmitted to any other court, the former court shall itself apply to such court for the transmission of the document and shall return it to the applicant.

(2) The appellate court shall retain copies of the trial courts judgment and decree as an adequate record of the judicial proceedings so long as the destruction rules prescribe the retention of Part I records and not return to the party under Rule 9 of order XIII after the disposal of the appeal.

132. Return Of Original Documents :-

a. Whenever an original document has been produced from the custody of a court or a Public Officer, the court shall unless it seems fit to proceed under Rule 8 of Order XIII, return it to the custody from which it was produced, without any application for its return

under Rule 7(2) or Rule 9 of Order XIII of the code.

b. All the valuable permanent records such as registration volumes shall be returned through a responsible person of the court and not by post or by Railway Parcel.

c. The provisions of the Destruction of Records Act (central Act V of 1917) and the rules made there under shall not apply to such a document until it has been returned to the court or the Public Officer by whom it was produced.

133. Deposit For Postage :-

If a record (not falling within the provisions of Article 11© of Schedule II of the Andhra Pradesh Court Fees and Suits valuation Act, 1956) or document is required to be sent by post the court may direct the applicant to deposit in court sufficient court fee stamps to defray the postage of the same to, and from the court. Unless the court otherwise orders, the costs of, incidental to, and application for production of records which are material and relevant to the case, or which are present for by the court of its own accord, shall be costs in the case.

CHAPTER 11 Commissions

134. Application For Commission :-

Every application for the issue of a commission shall state grounds there of and shall be supported by an affidavit setting forth the length of time that the execution of the commission is likely to occupy, the details regarding the locality where the commission is to be executed and its distance from the court, the estimated expenses of the commission, and the remuneration, if any, of the proposed commissioner: and in the case of commission for local investigation or to examine accounts, mesne profits etc., the specific points on which the enquiry is desired.

135. Commissioners Fees :-

a. If the application for the issue of a commission is granted, the court shall, after consulting the parties or their advocates, fix the amount of Commissioners fees and expenses and direct payments there of into court: and the commission shall not be issued unless the sum fixed by the court is paid into court within the prescribed period.

Provided that the court may, from time to time, on the application of any party or the commissioner, direct that any further sum be brought into court by any party. Process fees shall be collected for serving orders of appointment of Receivers and Commissioners as

per item II of Schedule of process fees.

136. Return Of Commission :-

Every order for the issue of a commission shall specify the date or several dates within which the return of the commissioner and the objections of the parties there to shall respectively be filed in court; and the suit or matter shall be adjourned to a fixed day.

137. Appointment Of Audit :-

If the court finds that the books of account have been regularly and properly kept, and correctly represent all the dealing sand transactions in question, the court may appoint a commissioner to audit the accounts and vouch the items there of, and to prepare a statement of account and balance sheet, as in Form No. 34.

138. Declaration By Court :-

If the court finds that any items have been included in the books of accounts which do not form part of sthe transactions in question, or are not properly chargeable to any party, or that any transactions have not been included in the said books, it shall declare generally the nature of the transactions or items to be excluded or included in taking the accounts, as in Form No.35, and the Commissioner shall be empowered to state what, in his opinion, should be allowed or disallowed in these respects, as in Form No.36.

139. Report Of Commissioner :-

The Commissioner shall make his report in the manner prescribed by form No.37 and shall annex there to a statement of the proceedings he had before him together with lists of the witnesses examined and exhibits marked by him. If he is empowered to state his opinion on the matter referred to him, he shall append to his report schedules setting out the several contested items allowed or disallowed by him, and stating shortly his reasons for so doing, as in the said form.

140. Consideration By Court :-

At the adjourned hearing of the suit, the court shall consider the objections, if any of the several parties to the statement of account and balance sheet or to the report of the Commissioner and may, if necessary, direct any party to bring in a fresh directions, as to the manner of vouching or taking the accounts.

141. Fees For Execution Of Foreign Commissions :-

a. For execution of a commission/letter of request issued under Rule 19 of Order XXVI of the Code at the instance of Foreign

Tribunals, a sum of Rs. 100 to wards the fees and Rs. 25 towards the expenses of the witness or such as the High Court may fix in the order shall be collected from the court at whose instance the commission in question has been issued.

b. The scale of fees will be the same for the examination of witnesses whether the commission is executed by the court or caused to be executed by a Commissioner. If the commission is executed by the court, the fees shall be credited to the State Government.

c. Such commissions shall be duly executed even if the sum remitted is sufficient to cover the costs at the above rates. When the commission is returned, the return shall state what additional sum may be due, or the excess remitted that has to be returned, as the case may be

CHAPTER 12 Judgments, Decrees and Orders

142. Time For Delivery Of Judgment :-

(1)The court, after the case has been heard, shall pronounce judgment in an open court, either at once, or as soon thereafter as may be practicable and when the judgment is to be pronounced on some further day, and such day shall be within thirty days and it shall not ordinarily be a day beyond sixty days from the date on which the hearing of the case was concluded the court shall fix a day for the purpose, of which due notice shall be given to the parties or their pleaders"

(2) The fair copy of the judgment required for the record in court shall be prepared within five days of the date on which judgment is pronounced.

NOTE:- In the case of Small Cause Suits "Fair"judgments will be required only in contested suits

(3)Where a party applies for a typewritten copy of the judgment immediately after the pronouncement of the judgment, a carbon copy shall be prepared along with the fair copy under sub-rule (2) The carbon copy shall be furnished to such party on payment of copying charges at the same rates applicable to the certified copies. The Charges shall be paid in the form of court-fee labels which shall be affixed on the application for typewritten copy before the copy of delivered. The carbon copy shall be certified and shall bear the seal of the court and shall bear the seal of the court and shall contain the particulars mentioned below.

(i) Date of application.

(ii) Date on which charges called for,

(iii) Date on which charges deposited.

(iv) Date on which copy ready,

(V) Date of delivery of the copy

143. Form Of Judgment :-

a. The judgment of the court shall be headed with the full cause-title of the suit, appeal or matter, the name of the Judge, and the date on which it was passed, and shall state the names of the parties or their advocates who appeared at the hearing and be drawn up in consecutive numbered paragraphs and shall also state the dates on which the case was heard as in Form No. 24 and a list of exhibits filed and witnesses examined shall be annexed thereto.

b. The judgment and final order in matters other than suits or appeals including contested Interlocutory Applications, Execution Petitions and Execution Applications, shall be drawn up in the same manner as the judgment and decree in the suit.

144. Form Of Decree And Time For Preparation :-

(1) Every decree shall be headed with the full cause-title of the suit, appeal or matter, the name of the Judge and the date on which it was passed and shall state the names of the parties, their description and registered addresses together with the names of the advocates who appeared at the hearing and shall be drawn up in Appendix-D to the Code with necessary modifications.

(2) Every decree shall ordinarily be drawn up" AS EXPEDITIOUSLY AS POSSIBLE AND, IN ANY CASE WITHIN THE FIFTEEN DAYS FROM THE DATE "within one week of the date on which judgment is pronounced. The decrees in intricate or important cases may be shown to the advocates concerned before they are finally drawn up.

145. Statement Of Registration District In Decree Or An Order In A Claim Petition As To Immoveable Property :-

Every decree an order in a claim petition with respect to immoveable property shall state, as part of the description thereof, the registration district, taluk Municipal Corporation or Municipality in which the same is situate, and there be annexed to the decree, a statement of the particulars mentioned in Form No. 8 certified by the Officer of the Court, and a copy thereof shall be furnished to every party applying for a copy of the decree.

146. Form Of Particulars Of Claim :-

The particulars of the claim to be inserted in the register of civil suits, and in the decree of order, shall follow as far as possible the forms of concise statement given in Form No.25 and shall contain

the amount or value of the claim and the date when the cause of action accrued.

147. Specification Of Periodical Payment :-

Where periodical payments are directed, the decree or order shall specify the date of the first payment, and the day of each month or year on which the subsequent payments are to be made, as in paragraph 5 of Form No.2 of Appendix III-D.

148. Specification Of Periodical Payments :-

When, after the passing of a decree for money, an application is made under Order XXI, Rule 11(1) of the Code, the decree shall be made in Form No.26

149. Decree Or Order For Cancellation Of Registered Instrument :-

Where any instrument effecting immoveable property registered under the Registration Act, 1908, is set aside discharged or cancelled an order of decree of a Civil Court, the court shall forthwith cause a copy of the decree or order drawn upon on plain paper to be forwarded to the registering office. Provided where such order or decree is modified, set aside or reversed, copies of further orders or decree shall also be forwarded to the registering officer.

150. Setting Aside Exparte Decree Where Money Or Property Recovered Under Same :-

An order, setting aside an exparte decree or order, under which a party has recovered any money or property, shall ordinarily direct the same to be brought into court, or possession thereof to be delivered to a receiver, pending the final disposal of the suit or matter, as in Form No.27 if a decree is then passed dismissing the suit or matter, it shall be drawn up in Form No.28.

151. Appellate Decree Reversing Lower Court Decree Where Money Or Property Is Recovered :-

The decree of an appellant court reversing the decree of a lower court under which money or property has been recovered shall direct the of the amount, or delivery of possession of the property recovered, as in Form Nos. 29 and 30.

152. Several Appeals Against Same Decree :-

If more than one appeal is made against the same decree, the appeals shall, if possible, be heard together and one decree only shall be drawn up which shall be headed with the cause titles of the

several appeals.

153. Reference To High Court :-

When a case is referred under Order XLVI, Rule 1 of the code, the court shall require the applicant to bring into court stamps requisite for service on notice on himself and all other parties to the suit or appeals, or if the reference is made on the motion of the court, the court shall require each party to bring into court stamps required for service on himself and shall transmit such court -fee stamps with the statement, of the case.

COSTS

154. Production Of Certificate Of Receipt Of Fee Except In Certain Cases :-

Unless the court otherwise orders, and except in the case of an Advocate appearing on behalf of the Government or of a public servant whose defence is undertaken by the Government or of the Agent of the Court of Wards, no fee shall in any case be entered as recoverable in a decree or order except on production of a certificate, signed by the advocate that he has received the fee

155. Statement Of Costs :-

a. Each party shall within five days from the date of judgment or order or such further period as may be allowed by court, bring into court the certificate mentioned in the preceding rule and a statement in the forms contained in appendix-D Form Nos. 1 and 2 and Appendixs Form No.9 to the First Schedule the Civil Procedure Code, 1908 (central Act V of 1908) and signed by him or 1 is advocate, if any, of the costs and expenses incurred by him, and may include therein the costs of .

(i) issuing notice before the institution of the suit not exceeding rupees thirty;

(ii) preparation of process;

(iii) making or getting copies of pleadings, applications, affidavits documents which are served on the opposite party at the rate not exceeding 0.50 paise per page inclusive of copies;

(iv) Traveling allowance and batta at the prescribed scale to witnesses (Whether summoned through court or not) who have attended the court and given evidence or produced a document;

(v) Obtaining a copy including search fee of a public document including an encumbrance certificate is relevant and marked as an exhibit or has been filed into court in compliance with any rule;

(vi) Any adjournment or interlocutory application allowed to him;

- (vii) Obtaining certified copies of depositions in the case; and
- (viii) Shall give credit for any costs allowed to his opponent and shall state the total amount claimed by him; and
- (ix) In the case of appeals, charges incurred by a party for obtaining certified copies of judgments and decrees and the expenditure incurred for taking or getting copies of the judgments filed along with the memorandum of appeal. Where the copies of judgments are typewritten at a rate not exceeding 50 paise per page (inclusive of copies) and where the copies are otherwise mechanically reproduced the actual cost incurred.

The said statement shall be checked by the officer of the court who shall note thereon the sums if any, disallowed, and the total amount disallowed him, and shall sign the same. If any party makes default in filing the said statement the officer of the court shall prepare and sign a statement of the amount of the institution fee, if any, and the Advocates fee, as fixed by the Judge, allowable to the said party. Each party shall be entitled to inspect and to take a copy of the said statement. Unless the court otherwise orders, on allowance shall be made for the cost of, or occasioned, to any party by the amendment of any pleading and for the stamp duty and penalty paid by the party in the court. The costs of preparation of process shall be calculated at the following rates. For preparation of original process 0.25 Ps. each. For preparation of each duplicate process 0.05 Ps. each Subject to a minimum fee of 0.75 Ps. in each suit. For the price of process form-the actual amount incurred. In appeals, the costs of the certified copies of the judgment and the decree of the lower courts filed with the memorandum of appeal in compliance with the rules be included in the statement of costs.

b. The statement referred to in paragraph (1) shall be signed by the Judge, and shall form part of the record of the case; and the total amount of costs allowed to the parties shall be inserted in the decree or order before the same is signed by the Judge.

156. Costs When Set-Off Allowed :-

If a defendant is allowed a set-off claimed by him, the court may, in its discretion, allow costs to the plaintiff in respect of the suit, and to the defendant in respect of his set-off. The total amounts of the said costs respectively shall be inserted in the decree or order, and shall be set off against one another, and the decree or order shall direct payment of the balance to the party to whom the same is due, as in Form No.31.

157. Proportionate Costs :-

In cases in which the court directs that the plaintiff or defendant/appellant another respondent to pay and or /receive proportionate costs, the whole costs incurred by each party, including court-fees. Advocates fees, batta etc., shall direct payment of the balance to the party to whom the same is due, as in form No.31.

158. Notice Of Application For Leave To Withdraw :-

Notice of an application for leave of withdraw from a suit, matter, or appeal, shall be given to all parties who have appeared at the first hearing, or if the application is made before the first hearing, then to all parties who have filed and appointment of an advocate.

159. Order On Application For Leave To Withdraw :-

Unless the court otherwise orders, an order under Order XXIII, Rule 1 of the Code permitting a party to withdraw a suit, matter or appeal, shall be made conditional upon payment of the costs of the defendant or respondent as in Form No.32 and, if the respondent has filed an memorandum of objections leave to withdraw shall be granted only with the consent of the respondent, or upon the condition that the said objection be allowed, and the decree or order appealed against be varied accordingly.

160. Direction As To Taking Accounts :-

If, in any suit or matter, it is necessary to take an account, the interim decree shall specify the nature of the account and the date from which it is to be taken, and if the account is to be taken by the court, shall direct by whom a statement of account is to be filed, and limit the periods within which statements of account, objection and surcharge shall respectively be filed in court, as in Form No.40. The suit or matter shall then be adjourned to a fixed day.

161. Form Of Statement Of Account :-

(1) A statement of account shall be in the form of a debtor and creditor account and shall be verified by the affidavit of the counting party or his agent. The items on each side of the account shall be numbered consecutively, and a balance shall be shown.

(2) A statement of objection to an account, or to the report of a commissioner, shall specify the items to which objection is taken by reference to their number in the account or report, or the date of the item and page of a particular book of account, or otherwise as in Form No.33.

(3) A statement of surcharge shall specify the amount with receipt

of which it is sought to charge the accounting party, the date when, the person from whom and the particular account on which, the same was received by him, or in Form No.33.

(4) A statement of objection of surcharge shall also state shortly and concisely the grounds of the objection or surcharge and shall also state the balance. If any admitted or claimed to be due, as in Form No.33.

162. Inspection By Parties :-

Every party to the suit or matter shall be at liberty to inspect and take notes of a statement of account, balance sheet, statement of objection and surcharge, or report of proceedings of a commissioner, when filed in court.

163. Passing Of Accounts By Court :-

On the adjourned hearing the court shall consider the objections and surcharges made and determine the amount due.

164. Extension Of Time To File Statement Of Account :-

If any party has not filed his statement of account or of objection and surcharge within the period limited, the court may from time to time extend such period or direct any other party to file statement of account, or proceed to decide the suit forthwith on the evidence before it. Evidence shall not be admitted with respect to an objection or surcharge not included in statement of objection or surcharge.

165. Periodical Filing :-

When a person is directed to file his accounts periodically, the court shall fix the dates in each year before which his statement of account and balance sheet are to be filed and on which same will be considered by the court.

CHAPTER 13 Appeals

166. Memo Of Appeal :-

The memorandum of appeal shall specify, concisely and under distinct heads, the grounds of objection to the decree appealed from the precise relief which the appellant proposes to ask the appellate court to grant.

167. Appeals Against Orders :-

All appeals arising against the Orders made on petitions under Special Acts such as (1) Andhra Pradesh Buildings (Lease, Rent and Eviction) Control Act, 1960; (2) Andhra Pradesh Co-operative

Societies Act, (3) Andhra Pradesh Municipalities Act, 1965, etc shall be registered as Civil Miscellaneous Appeals and entered in the Civil Register No. 4 shall be registered as Civil Miscellaneous Appeals and entered in the Civil Register No.4 shall be registered as Civil Miscellaneous Appeals and entered in the Civil Register No.4

168. Transmission Of Records :-

All the material papers in every suit or other proceeding in which an appeal has been made shall be transmitted to the Appellate Court immediately on receipt of intimation that an appeal has been registered and calling for records without waiting for the service of notice on the respondent.

169. Costs To Be Stated :-

(1) The Court shall, in every case in which a finding is called for under Rule 25 of Order XLI of the Code, while returning its finding, certify at the foot thereof the amount of costs showing the items in detail incurred by each of the parties to the case.

(2) When a suit is remanded, a statement of the costs incurred in the Appellate Court shall be appended to its order.

170. Appeals Against Interlocutory Order :-

Appeals against interlocutory Order which held up the progress of suits or other proceeding in the trial court, shall be given precedence over all civil work other than that of a specially urgent nature and such appeals shall be disposed of expeditiously.

171. Judgment In Appeal :-

The Appellate Court may formulate suitable points for determinations in appeals in accordance with the same principles on which issues are framed in the Trial Court and record its distinct finding on all questions of fact as is sufficient to show that the court has dealt with each ground of appeal.

CHAPTER 14 Special Procedure in Particular Cases

172. Plaintiff Or Original Petitioner On Behalf Of Minor :-

When a plaintiff or original petitioner is presented by a person as the next friend of a plaintiff who is a minor or under disability, he shall at the same time file an affidavit by some disinterested person that he has no interest in the subject-matter or the suit or matter, adverse to that of the plaintiff that he is defendant or respondent in the suit or matter, and that he is a fit and proper person to act as next friend.

173. Appointment Of Guardian Ad-Litem :-

If the plaintiff applies for appointment of a guardian ad-litem of a minor defendant, he shall give not less than six days notice of the application to the father, or guardian, or custodian, of the minor.

174. Placing Guardian In Funds :-

When a guardian ad-litem of a defendant, who is a minor, or a person under disability, is appointed, and it is made to appear to the court that the guardian is not in possession of any or sufficient funds for the conduct of the suit on behalf of the said defendant and that the defendant will be prejudiced in his defence thereby, the court may from time to time, order the plaintiff to pay through or in the presence of the court moneys to the guardian for the purpose of his defence, and all moneys so paid shall form part of the costs of the plaintiff in the suit, the order may be made conditional up on the guardian filing in court his accounts of the money so received by him.

B-PARTNERSHIP SUITS

175. Parties :-

In a suit for dissolution of partnership, or for an account of partnership dealings, all the partners, and all persons entitled to share in the profits of the partnership business, shall be made parties. The plaint may be as in Form No,38.

176. Inspection Of Books Of Account By Parties :-

If, at any time, it appears to the court that any party has not had inspection of the books of account or papers of the partnership, either through his own neglect or the default of any other party, the court may order the same to be produced for his inspection at the court-house or other convenient place; and if any party alleges that the books of the partnership do not correctly set forth all the dealings and transactions of the firm, or contain items or transactions not proper to be included there in, the court shall direct such party to file a statement giving particulars of the errors or irregularities complained of, as in Form No.39. The hearing of the suit shall then be adjourned, and the party in default may be ordered to pay the costs of the adjournment.

177. Impeachment Of Settled Account :-

If any party desires to impeach a settled account on the ground of error, he shall, in his plaint or written statement, set out the specific errors or irregularities alleged by him if on the ground of fraud, or of a mistake affecting the whole account he shall in his plaint or

written statement set out full particulars of the fraud or mistake alleged by him.

178. Interim Decree Where Partnership And Books Admitted :-

If at the first hearing of the suit, the partnership and the terms thereof, and the correctness of the books of account, are admitted, and it is only necessary to take an account the court may at once pass an interim decree specifying the account to be taken, and the manner of taking the same.

179. Matters To Be Determined At Hearing :-

At the hearing of the suit the Court shall determine the persons who are partners of the firm, and who are entitled to share the profits thereof, and the proportions in which they are entitled to share profits and are liable for losses and also, whether the books of the partnership have been regularly and properly kept and correctly represent the transactions and dealings of the partnership, or if any allegations have been made in this behalf by any party, whether there are any errors or irregularities therein, or any party has been guilty of fraud in respect thereof. If the court finds that there are errors or irregularities in the accounts or that fraud has been committed, it shall declare generally the nature of the said errors, or irregularities, or fraud, or the particular transaction in respect of which the same has been committed , as in Form No.35.

180. Court To Give Directions As To Taking Accounts :-

At the hearing of the suit, the court shall also determine what accounts are to be taken, and from what date and give such directions as may be necessary for taking the same in manner prescribed by rules (160 to 165 and 136 to 140), and shall direct what notice, if any, is to be given, by advertisements in the local newspapers or otherwise, of the dissolution of the partnership. The court may, if a Receiver has not been previously appointed, appoint a receiver of the assets of the partnership. The court shall then pass an interim decree in Form No.40 or Form No. 41 and shall adjourn the further hearing of the suit to a fixed day.

181. Errors In Settled Account :-

In the case of a settled account, if errors or irregularities are proved, the court may either rectify particular items, or give liberty to any party to file a statement of objection and surcharge; if fraud, or a mistake affecting the whole account is proved the court may direct an account to be taken from the date of the settlement

of accounts, of any, preceding the fraud or mistake.

182. Commission To Take Account :-

If a commissioner is appointed to take an account, he shall take the same in accordance with the directions and findings of the court, as contained in the interim decree; and except as aforesaid, none of the matters in Rules 179 & 180 mentioned shall be referred to or dealt with by a commissioner

183. Order For Discharge Of Debts And Liabilities :-

When the accounts of the firm have been duly taken and approved by the court, it shall pass an order providing for the discharge of the debts and liabilities of the firm, and for the retention in court of a sum sufficient for payment of any costs, charges, and expenses of the suit properly payable out of asset, and adjourn the suit to a fixed day.

184. Distribution Of Assets Where They Exceed The Liabilities :-

(1) If the assets exceed the debts and liabilities of the firm, and if the parties agree to retain the assets in their hands respectively, on account of their respective shares in the firm, the order in Rule 183 mentioned may also provide for the payment of any balance which may be due by the firm to any of the parties, after debiting them with the estimated value of the assets in their hands. The order may be in Form No.42, or if commissioner has been appointed to take the accounts or a Receiver has been appointed, In Form No. 43. If the parties apply for the distribution of the assets in any other manner, the order may direct the realization of sufficient assets to discharge the debts and liabilities of the firm and to provide for equality of partition, as in Form No.44 At the adjourned hearing the court may, if the terms of the said order have been complied with; pass final decree in Form Nos. 45, 46 or 47 according to the circumstances of the case.

(2) A final decree effecting a partition of partnership assets shall be engrossed on non-judicial stamp paper of the same value as that required for an instrument of partition.

185. Procedure Where Liabilities Exceed The Assets Or Where Parties Do Not Consent To A Distribution Of Assets :-

If any party, ordered to make any payment, or to do any other act, fails to comply with the order of the court, any other party may apply that a Receiver may be, appointed to collect and realize the assets of the firm, and for an injunction to restrain the party in

default from retaining or parting or dealing in any manner with the said assets.

186. Appointment Of Receiver On Default Of Party :-

If the debts and liabilities exceed the assets of the partnership, or the parties do not consent to distribution of the assets, the court shall direct the balance due from the several partners to be paid into court, and the assets to be realized, as in Form. No . 44 ; and if, at the adjourned hearing, it appears that the debts and liabilities have been fully discharged the court may pass final decree in Form No.46 omitting paragraph 4 thereof.

187. Form Of Orders :-

An order for an injunction in a partnership suit, an order on appeal from the final decree reversing the same and appointing a Receiver, may be as in Form Nos. 48, 49 and 50 respectively.

CHAPTER 15 Copies and Copyists Establishment

188. Persons Entitled To Apply For Copies :-

(1) Any party to a suit or proceeding shall be entitled to obtain copies of judgments, decrees, or orders made or of any documents exhibited in such suit or proceeding on payment of charges in the manner prescribed under these rules.

(2) Any person who is not a party to a suit or proceeding requiring, copies of judgments, decrees or orders made or of any documents exhibited in such suit or proceedings may apply to the court for grant of such copies by duly stamped petition supported by an affidavit stating the purpose for which the copy is required.

Provided that, in cases of doubt whether, the copy applied for should be furnished, the application shall be placed before the judge for his decision. If the application is refused by the Judge it shall be returned to the applicant with the order of Judge endorsed on it.

189. Copies Of Confidential Papers :-

Nothing in these rules shall entitle a person to a copy of (a) Judges notes or minutes (b) Correspondence not strictly judicial and (c) confidential Correspondence.

190. Application For Certified Copy :-

(1) A person entitled to obtain a copy or who has obtained an order of court under these rules may present an application therefor to the Superintendent of the copyists or where there is no such officer, to the Chief Ministerial officer either in person or by his

Advocate or the letters authorized clerk between the hours of 11.00 a.m and 3.30p.m If the proceeding or document has been sent, to another court the application may, at the opinion of the applicant, be forwarded to the said court for compliance, or be returned to him, for presentation to the said court.

(2) The Application shall be in Form No.51 and shall set out the name of the applicant and when he is a party to the suit or proceeding his position in the suit or proceedings and description of the document of which a copy is required. An application, which is not in proper form, shall be returned for amendment.

191. Defective Applications :-

When a application is returned for amendment a time limit of days shall be fixed for its representation. A defective application, which is not taken return of by the applicant and not represented within the period specified above shall be struck off.

192. Copies Of Proceedings Of High Court :-

An application for copy of a plaint, written statement, memorandum of appeal, judgment decree or other proceedings of, or in the custody of the High Court may be made by an party to such proceeding to the Court of first instance, or to the lower appellate court and shall be transmitted by the said court to the High Court for disposal. The copy, if granted, shall be transmitted by the High court to the former court, and on payment of the prescribed fees, shall be delivered to the applicant. No copy of any proceedings of the High Court shall be granted by a subordinate court. Ana application by a person not party to the proceeding shall be made directly to the High Court.

193. Notice As To Stamp Papers :-

(1) Every day a list showing the applications in which the records have been received. And the number of stamp papers required in each case shall be prepared and affixed to the notice board of the court between the hours of 3.30 p.m and 5.00p.m. Such lists shall remain on the board for the clear working days. Application upon which the requisite stamp papers have been deposited shall be struck off from the list. After the expiry of the period prescribed for the deposit of the stamps, the list shall be taken down and filed in the record for 12 months and shall then be destroyed.

(2) If the required stamp papers have not been deposited by 3.00 p.m on the fourth working day counting from the including that on which the lists were first affixed the application shall be struck off

and, unless it is restored on an application made to the court for the purpose, copy shall be granted only on a fresh application.

(3) The above procedure shall apply for collecting additional stamp papers when the number first supplied has been found to be insufficient;

Provided that, where the additional stamp papers called for are not deposited but the stamp papers originally deposited are sufficient for the preparation of complete copies of one or more of the documents applied for, the application shall be struck off only as regards the documents which cannot be prepared by reason of the insufficiency of the stamp papers supplied. In such cases, the Superintendent of the copyists or such other officer as the Judge may appoint in this behalf, shall decide which document shall be copied and the decision shall be final.

194. When Stamp Papers Not Available :-

It shall be open to the parties after obtaining the previous order of the judge in this behalf, to furnish white foolscaps size paper of durable quality with the requisite court fee stamps affixed on each sheet in lieu of stamp papers, and the papers so stamped shall for all purposes, be deemed to be stamp papers.

195. Order In Which Applications Should Be Complied With :-

The preparation of the copies of documents applied for or such of them as admit of being copied in full on the stamp papers deposited shall, as far as possible, be undertaken in accordance with the serial order of the copy applications; Provided that copies of decrees and judgments, if any, comprised in an application shall have precedence over copies of other documents included in the application. A special order for precedence as regards any particular application shall be made only on a separate application duly stamped under the Court Fee Act and praying for such an order.

196. Posting Of List Of Copies :-

A list of copies ready for delivery shall be pasted on the notice board of the court at 11.00 a.m., each day and shall remain thereon for three clear working days. The copy and any unused stamp papers shall be delivered to the applicant between the hours of 10.30 and 11.30 a.m and 3.00 p.m and 5.00 p.m and if the copy is not claimed by the applicant within 12 months from the date of posting the said list, it shall be destroyed. Immediately after the copies are delivered to the applicant concerned the entries relating

there to shall be struck off the list. The lists shall be retained for twelve months after which they shall be destroyed. As and when copies are delivered to the parties, appropriate entries shall be made in the list.

197. Disposal Of Incomplete Copies And Used Stamp Papers

:-

(1) Where an application is struck off in whole or in part, the applicant shall not be entitled to the incomplete copy of any document prepared on his behalf. The incomplete copy shall be destroyed after twelve months from the date on which the application was struck off.

(2) Where an applicant has furnished the required number of stamp papers, but some remain unused owing to the copyists writing too closely, the Presiding Officer of the Court shall forward the unused stamp papers to the local or the nearest treasury officer.

(3) Where stamp papers have been furnished in excess of the requirements or where an insufficient number of stamp papers has been furnished and the applicant fails to furnish the requisite number of additional stamp papers within the prescribed period, it shall be noticed on the notice board that the unused stamp papers will be held at his disposal for a month from the date of affixture of such notice and will be sent to him by registered post if within the above period he remits the cost of dispatch which shall be stated in each case. If the amount be not remitted and no arrangements made to take delivery within the period fixed, the unused stamps, shall be treated as cancelled and sent to the local or nearest treasury officer.

198. Delivery By Post :-

The applicant may, in his application for a certified copy, apply that the same may be delivered to him through the post at a specified address; and in such case, the copy shall be forwarded accordingly, and if the applicant so requires, by registered post.

199. Sealing And Certificate :-

All copies furnished by the court shall be certified to be true copies, and shall be sealed with the seal of the court. The Superintendent of copyists or other officer appointed by the Judge, shall initial every alteration and interlineations in the copy, and shall sign a certificate at the foot thereof that the same is a true copy, and shall also state the number of alterations and interlineations made therein.

200. Endorsements As To Dates :-

Every copy shall bear an endorsement showing the dates on which:-

- (1) the application was made;
- (2) the application was returned;
- (3) the application was represented;
- (4) the stamps were deposited;
- (5) the stamps were deposited;
- (6) the additional stamps were called for;
- (7) the additional stamps were deposited;
- (8) the copy was ready, and ;
- (9) the copy was delivered.

The copy application (C.A) number shall also be noted on every certified copy.

201. Copy Applications Struck Off :-

(1) Any copy application struck off under Rule 191 or under Rule 193 supra may be restored by the court on a petition supported by an affidavit preferred for that purpose. The petitioner may deposit the required copy stamps along with the petition for restoration of the application for copies.

(2) Every certified copy furnished after such restoration of the application for the copies, shall bear an endorsement showing, in addition to the details specified in Rule 200 Supra.

- i. The date on which the application was struck off;
- ii. The date on which petition was filed to restore the application and ;
- iii. The date on which the application was restored to file.

202. Drafting Of Formal Orders :-

(1) When an application is received for a copy of a judicial order for purpose of appeal or revision,, the court shall draft a formal decree and furnish a copy of the same after collecting necessary charges.

(2) To avoid inconvenience to the Appellate Court in reading the typed papers, the court shall furnish the first written copy of judgment, decree or order to the parties requiring them for purpose of appeal or revision.

203. Copying Charges :-

(1) One copy stamp paper shall be furnished for every 350 words or part thereof, in the case a copy for which Article 21 of Schedule I-A of the Stamp Act, 1899 as amended and the rules made there under require the production of non-judicial stamp paper of a

particular value, the stamp paper or papers supplied for the purpose shall be used for copying and shall be written on in the same manner as if they were copy stamp papers. Copy stamp papers shall be furnished to make up the deficiency in the papers required to complete the copying.

(2) 175 words shall be written on each page. Four figures shall be taken as equivalent to one word.

(3) The copying fee for each page shall be (Re.1/-)1 or such fee as the Government may prescribe from time to time. Where the value of the stamp paper is less than the prescribed fee, the deficiency shall be made good in the shape of adhesive court fee stamps, When the copy is written on non-judicial stamp paper adhesive court fee stamp of the prescribed fee shall be affixed to each page on which the copy has been made. The copying fee shall not be collected in cash.

(4) The cost of copying maps, plans, genealogical trees, tabular statements or other matter requiring special skill shall be fixed by the judge and shall be deposited in cash in court. Notice of such amount shall be pasted on the notice board of the court and the provisions of Rule 193 shall apply to the payment of such amount.

(5) Except in a case requiring special skill, copying charges for execution petitions, diglot registers sale proclamations, books of account or other matters, including lines and columns shall be levied with reference to the space occupied, provided that not more than 175 words shall ordinarily be copied on or computed as the equivalent of one page.

203A. Section 203A :- (1) On an application by the party, the court may grant copy of a proceeding or document filed in or in the custody, of the court by getting it reproduced mechanically on payment of Rs. (2-00)1 per page by means of affixture of court fee labels to the application for copy or in cash through lodgment Schedule with in such time as the court may grant.

(2) The same Rules as are applicable to certified copies to be taken out on copy stap papers will also apply mutatis mutandis to copies taken by mechanical reproduction".

204. Costs Of Typing Or Copying :-

Costs of typing and/or copying may be taxed and dealt with as costs in the cause.

CHAPTER 16 Proceedings in Execution

205. Rules Applicable To All Proceedings In Execution :-

The following rules shall apply to all proceedings in execution as well of decrees as of orders, and in this chapter the word decree" includes order".

206. Transmission Of Decree For Execution :-

(1) An application for the transmission of a decree to another court for execution shall be made by a verified execution petition headed with the cause-title of the suit, and the serial number of the execution petition in the suit and shall state, in addition to the particulars set out in clauses (a) to (i), inclusive of Order XXI, Rule 11(2) of the Code, any facts relied on by the applicant to bring the case within the terms of Section 39 and order XXI, Rule 4 and 5 of the Code, and shall specify the court to which transmission of the decree is sought, as in Form No. 52.

(2) If the application is admitted, the applicant shall, within 7 days thereafter, deposit in court the process fee and the expenses for issue of an order and for transmitting the decree.

(3) Notice of the application shall be given in all cases in which, under Order Xxi, Rule 22 of the Code, notice of an application for execution is required.

(4) The certificates and orders of transmission of decree to another court for execution under Rule 6 of Order XXI shall be signed by the Presiding Officer of the Court and the seal of the Court shall be affixed for authentication.

(5) The Court granting the application may, if prayed for by the applicant hand over to him or to his advocate, in a sealed cover, a copy of the order transferring the decree together with the documents enumerated in Rule 6, Order Xxi of the Code to be taken to the court to which they are to be transmitted. The Court shall send a copy of the order in confirmation to the court to which the decree is transmitted.

207. When Sent To District Court Of Another District :-

If the decree is sent to the District Court of another district for execution by a court subordinate thereto, the district court shall at once transmit it to the subordinate court, and no application to the District court shall be necessary. No charges for transmitting the decree to such subordinate court shall be levied by the District Court.

208. Return Of Decree To The Transmitting Court :-

(1) The court of which a decree is sent for execution shall certify to

the court which sent the decree, the fact of execution of such decree specifying the nature and extent of satisfaction, or where the former court fails to execute the decree the circumstances attending such failure.

(2) If the decree-holder does not, within six months from the date of the receipt of the decree on such transfer, apply for execution there of, the court to which the decree has been sent shall certify the fact that no application for execution has been made to the court which passed the decree and shall return the decree to that court.

209. Application For Execution :-

(1) Except when made under Order Xxi, Rule 11(1) of the Code, an application for execution of a decree shall be by petition and, in addition to the particulars set forth in Order Xxi , Rule 11(2) of the Code, shall be headed with the cause title of the suit and separately numbered in each suit.

(2) The petition shall, if it relates to any property of the judgment debtor, pray for the realization thereof, in the manner appropriate to the nature of the property, as in Form. No. 53 and shall also set out the whole of the relief which the Applicant requires at the time of presenting the same. The court shall not grant any relief not claimed by the execution petition.

210. Certified Copy Of Decree To Be Filed :-

The Judgment creditor shall, together with the first petition for execution or transmission of a decree, file in court a certified copy of the decree sought to be executed, and shall not be required, upon any subsequent application, to file a further copy of the same decree, unless the copy already filed has been sent to another court, under Order XXXI Rule 6 of the Code, and has not been returned and application is made to the court which passed the decree for simultaneous execution.

211. Non-Compliance With Rules :-

A petition not complying with the provisions of the Code or these rules or not claiming any substantial relief, shall be returned for amendment or rejected.

212. Procedure On The After Hearing Of Petition :-

(1) Upon the hearing of the petition the court shall as contain whether the provisions of the Code and these rules have been complied with and shall determine whether notice thereof is to be served on any person. If the petition is admitted, the court shall

adjourn the further hearing to a fixed day, and the application shall within two days or such other period as may be fixed by the judge, bring into court the fees prescribed for issue of process and if the application is for arrest of the debtor the subsistence moneys fixed by the judge under Order XXI, Rule 39(1) of the Code. At the adjourned hearing the court may, if the prescribed fees and subsistence money have been paid, order process to issue; or in case of default, may extend the time for payment, or dismiss the petition. Provided that the court may, if it thinks fit, on admitting the petition, in any case in which the prescribed fees and subsistence moneys have been paid order process to issue forthwith.

(2) While making an order on an execution petition which involves termination or suspension or proceedings in execution the court shall state clearly in its order whether the execution petition is terminated on the completion of execution or adjourned or dismissed.

213. Determination Of Question Arising In Execution Of Decree :-

If any question arises for the determination of the court executing a decree the same shall be heard and determined upon the hearing of the petition or an application made therein, and, if evidence is taken orally, the court shall record the evidence of the witness, and mark all exhibits admitted in evidence, in accordance with Order XVII, Rules 4 and 9 to the Code. The Court shall, in any case records its judgment and draw up its order in the same manner as upon the hearing of a suit.

214. Order To Appoint A Day For Sale :-

In the case of an application for the attachment and sale fo any property, the court unless otherwise orders, shall after passing necessary orders, adjourn the hearing of the petition to a fixed date.

215. Joint Decree- Holders :-

When an application is made by one or more of several joint decree-holders unless a written authority signed by the other decree-holder for the applicant to execute the decree and to receive the moneys or property recovered is filed in court, the court shall give notice of the order, if any, passed for the execution of the decree, to all the decree-holders who have not joined in the application; and may also, in its discretion, give notice of any

application for payment out of court, or delivery to the applicant, of any money, or property recovered in execution.

216. Application In Pending Petition :-

At the hearing or any adjourned hearing of an execution petition, the judgment creditor may apply orally for any relief prayed for by the petition; and any other party may upon giving three days notice in writing to the opposite party, make any application with respect thereto.

217. Application In Pending Pending :-

If it is necessary to make an application in connection with a pending execution petition otherwise than at the hearing or any adjourned hearing thereof, the application shall be headed with the cause-title of the suit, and the serial number of the execution petition, and shall also be separately numbered in each execution petition.

218. Application Of Rules :-

Rule 53 to 59 and 213 supra shall apply to all applications by a party to the suit or matter made in or with respect to pending execution petition.

219. Procedure In Case Of Execution Of Documents By Court :-

The procedure prescribed by Order Xxi, Rule 34(1) to (4) of the Code shall apply to all documents where of the execution by any party has been directed by the Court.

220. Decree-Holder To Bring Into Court The Draft And Fees For Service Of Notice :-

The decree-holder shall, together with the draft in Order Xxi, Rule 34(1) of the Code mentioned, bring into court a duplicate thereon and two copies of a notice in Form No.54 and the prescribed court fee stamps for service thereof. One of the said copied shall be annexed to the draft, and shall be served on the person directed to execute the document in manner prescribed for service of summons on a defendant to a suit.

221. Form Of Deed And Of Endorsement Of Negotiable Instruments :-

In case of a deed, the concluding portion shall be in Form No. 55, and in the case of a negotiable instrument, the endorsement shall be in Form No..56 and judge shall sign the name of the party directed to execute the document and his own name, as in the said

forms, and shall affix the seal of his court thereto.

222. Amount Realized In Execution To Be Paid Into Court :-

Except when payment is made to the decree-holder under Rule, 230 all moneys recovered by an officer of the court, or received by an auctioneer shall be paid into court in manner prescribed below for payment of moneys into court and notice of the payment shall be pasted on a notice board of the Court and a certificate thereof shall be endorsed to the lodgment schedule.

223. Application To Certify Payment Or Adjustment :-

An application under Order XXI, Rule 2 of the Code, shall be by petition, or if an execution petition is then pending by an application at the hearing thereof or an execution application made in the said petition.

224. Payment Into Court In Satisfaction Of Decree :-

(1) Except when payment is made to the decree-holder under Rule 230, a person paying money or bringing property into court in satisfaction of decree shall be given notice of such payment or deposit to the judgment-creditor. (2) Where money due under a decree is remitted to court by the judgment debtor or any one on his behalf by Money Order or through a Bank or by other recognized mode and the judgment-debtor or his Advocate is not available to pay the process fees for the notice required to be issued under Rule 1(2) of order XXI of the Code the notice may be issued initially at Court's cost, and the same shall be subsequently recovered from the judgment-debtor.

225. Lodgment Schedule To Be Brought In :-

(1) A person desirous of paying money into court, herein after called the payer, shall bring into court a lodgment schedule in Form No.57, headed with the cause-title of the suit the appeal, or proceeding and the particular account therein, if any, to which the money is to be credited, and stating decree or order, if any, in pursuance of which the payment is made, or the reason for the payment, and several sums and the total amount to be paid into court.

1 An order for lodgment in Triplicate in Form No.58 stating the date of issue and bearing a serial number shall then be filled-in, except as to the date of payment and the signature of the receiving officer by the Officer of the court and issued to the payer" 2 The particulars of the currency notes, coins and cheques shall be noted on the reverse side of the form of the challan accompanying each

remittance.

(2) When deposits are made under Rule 85 of Order XXI of the Code, one single challan shall be used in entering the sale proceeds and the amount required for the general stamps for the preparation of the sale certificates.

226. Delivery To Bank Or Treasury Officer :-

The payer shall note the particulars of currency notes, coins and cheques on the reverse side of the form of the Challan accompanying each remittance and deliver the money and (OR) the Cheque and the order in triplicate to the Bank or Treasury Officer mentioned therein, who shall retain the Order and send one copy to the Court, with the daily scroll of the bank and return the receipt duly signed and dated to the payer who shall return the said Receipt to the Court. The receipt when received into Court from the Bank with the daily scroll must be attached by Gum to the Office Counter foil of the lodgment book.

227. When Bank Or Treasury Is Closed :-

If the bank or the treasury is closed, the money may, with the leave of the judge, be paid to the officer of the court; in such case the lodgment schedule shall be endorsed with an order and counterfoil receipt, by the officer or treasury is open, be sent, together with an order and counterfoil receipt, by the officer of the court to the bank or treasury officer who shall return the said receipt to the court.

In the case of deposits by purchasers in court auctions, when the deposit is made when the Bank or the treasuries closed, the payment should be made to the officer conducting the sale. The payments shall be entered forthwith in the cash book and the ledger, and in the case of courts dealing with the branches of "State Bank of India or the State Bank of Hyderabad", in Civil Register No.38, also, and the money left for safe custody with the head clerk until the next day on which the bank or treasury is open. The lodgement schedule shall be endorsed with a receipt to be signed by the Judge, and shall also be signed by the head clerk in token of his having received the money. A lodgement order shall also be issued on the same day.

On the next day on which the bank or treasury is open, the officer of the court to whom the money was originally paid shall receive it back from the head clerk, and shall in token of having done so sign the lodgement schedule, and he shall with all convenient speed send the money together with an order the counterfoil receipt to

the bank or treasury officer who shall return the said receipt to the court. On receipt of the counterfoil receipt from the treasury bank, an entry shall forthwith be made on the disbursements side on the cash book in the column under the heading cash and another on the receipt side of the book in the column under the heading cash and another on the receipt side of the book in the column under the heading Bank or Treasury, No. separate entry shall be made in the ledger in respect of the remittances into the bank or treasury, but the number of the bank or treasury receipt shall be entered in it in the form of an inset entry against the original entry. The same procedure shall apply as far as may be, to amounts collected by amins and peons on warrants of attachment or warrants of arrest when the money is brought into court when the bank or treasury is closed.

Note:- Money paid into court under this rule must be remitted to the treasury or bank with the least possible delay and in no instance should an interval of more than 24 hours be allowed to occur if the treasury or bank be open. But where there is no sub-treasury or bank in the station, daily remittance of petty amounts of less than Rs.25/- to the treasury or bank which involve expenditure on traveling allowance out of proportion to the amounts remitted should be avoided.

228. Receipt :-

Up on the return of the said receipt to the court by the payer, or by the bank or treasury officer under the proceeding rule a receipt signed by the judge shall be issued to the payer, and the amount paid shall be entered to the credit of the account in respect of which the payment is made.

Note:- The High Court considers that the receipt contemplated by this rule may be signed by the Chief Ministerial Officer of the court authorized in this behalf by the District Judge.

229. Transmission Of Money Payable In Satisfaction Of Decree :-

Unless it appears to the court that the personal attendance of the party is necessary, money payable in satisfaction of a decree order may be transmitted to the court by postal money order or in Government currency notes. In such cases, the payer shall, before transmitting the money, send to the court, in pre-paid registered cover, a lodgement schedule in the form prescribed by Rule 225 and stating the manner in which the money is to be sent.

Note:- Suitors moneys which have been placed in Civil Court deposit

held by courts in trust in all cases and can be invested only in securities specified in Section 20 of the Trust Act. Amounts up to Rs.3,000 may also be deposited in the Post Office Savings Bank.

230. Payment By Way Of Crossed Cheques :-

In all cases where money is payable to a party the cheque petitions are ordered in favour of such party or parties at any stage of the proceeding sin the court or while interlocutory orders are passed by the original court, or while implementing orders of appellate or revisianal courts, the money so payable shall be paid by drawing a crossed cheque (Account payee) in the name of the party or parties to whom the money is payable or the lawful guardian, in the name of the party or parties to whom the money is payable or the lawful guardian, in case the payee is a minor, upon proper identification of the said party in such manner as the court may think fit and in such cases the lodgement schedule shall be endorsed with an order for payment to the person or persons so entitled, in the manner prescribed above signed by the judge and with an acknowledgment of receipt, signed by the payee or payees and satisfaction pro-tanto of the decree or order, if any, in pursuance of which money is paid shall be entered-up.

231. Application For Payment Out In Other Cases :-

Except as provided by Rules 230 and 240, payment of money out of court shall be made only upon the order of the Judge made at the hearing of a suit, appeals, or matter, or upon an interlocutory or execution application, supported by affidavit showing how the applicant is entitled to receive payment.

232. Section 232 :-

233. Payment Schedule To Be Brought In :-

A person desirous of obtaining payment of money out of court, herein after called the payee, shall bring into court a payment schedule, in Form No.59, headed with the cause title of the suit, appeal or matter and the particular account if any, to which the payment is to be debited, and stating the decree or order authorizing the payment, and the several sums and the total amount to be paid out of court and also a receipt for the said amount signed by the payee. If the payee is the agent of the person entitled to receive the money he shall, before making an order for payment out, verify from the weekly statements received from the Treasury that the amount, of which payment out is sought, is supported by the necessary credit in the account and is

available for payment out. An order for payment and counterfoil receipt in Form No.60 stating the date of issue, the amount to be paid, and account to which the payment is to be debited, shall then be issued to the payee. The receipts taken from parties for sum paid out of the court shall be attached to the office counterfoil of the payment order book.

234. Presentation Of Order :-

The order shall be presented for payment within the account month in which it is issued, and, if not presented within the period shall be returned to the court and may then, after being re-dated and initialed by the Judge, be re- issued to the payee. 3Provided that the revalidation of a payment order may be made only once and that too within one month after the month of issued. When a payment order is presented for revalidation beyond one month after the month of issue, it shall be destroyed and a fresh payment order be issued in lieu thereof.

235. Receipt By Payee :-

On payment of the amount of the order, the payee shall sign a receipt therefore endorsed on the order.

236. Order Not To Issue After 25Th Of The Month Except In Cases Of Urgency :-

Except in cases of urgency, no order for payment of money out of Court shall be issued after the 25th day of each calendar month.

237. Rules As To Delivery Of Securities, Jewellery Or Other Valuables, Into And Out Of Court :-

The foregoing rules shall apply to the delivery of securities, jewellery or other valuables into and out of court, with the following modifications:-

(1) Government promissory notes and other negotiable securities, shall be endorsed "The Judge of the court of

(2) When jewellery or other valuables are to be brought into court two copies of a descriptive list thereof shall be presented with the lodgements schedule, and shall be checked and signed by the judge in the presence of the depositor. The jewellery or other valuables shall be placed in a box, furnished with a lock and key, to be provided by the depositor. The box shall then be locked and sealed in the presence of the judge with the special seal supplied for this purpose, and forwarded by the court to the bank or treasury officer together with one of the copies of the said list and the key shall be retained by the Judge. The remaining copy of the

said list shall be returned to the depositor, and on the return of the counterfoil receipt by the bank or treasury officer, an receipt signed by the judge shall be given to the depositor, in the exchange for the said descriptive list. 2 The court may call upon the party at whose instance the deposit is made to pay into court such sum of money as may be necessary to meet the safe custody charges payable to the bank in the first instance or from time to time. In default of payment the court may refuse to make the deposit in bank or withdraw the property from the bank or may pass such order as may be necessary for recovering any dues payable to the bank from the party liable to pay the same.

238. Cases Where Payment May Be Made In Case To Officer Of A Court :-

Notwithstanding anything contained in this chapter moneys for any of the purposes hereunder mentioned may be paid in cash to an officer of the court, to be appointed by the judge.

1. Service of summons in respect of which the fees cannot be paid in stamps.
2. Allowances to witness
3. Commission Fees.
4. Money-order commission for transmission of commissioners fees.
5. Judgment-debtors subsistence moneys.
6. Tom-Tom charges.
7. Charges for the conveyance of attached property and for feeding attached cattle.
8. Postage and other charges for calling for records for reference, or for transmissions or of decrees to other Courts for execution.
9. Moneys representing the values of non-judicial stamps for sale certificate when the amount does not exceed Rs.5/- and
10. Safe custody charges payable under Rule 237. Provided that, if in the opinion of the said officer, disbursement of the said money is not likely to be made within a month, the procedure prescribed by Rule 225 to 236 inclusive shall be followed.

Provided also that where the amount paid under (9) above is less than Rs.1/- the court may retain it for a period not exceeding three months after which if it is not disbursed, it shall be credited direct to the Government as revenue subject to its being refunded to the party entitled to it if and when claimed. Provided further that in cases where the amount paid under (9) above does not exceed Rs.5/- and said amount is not likely to be disbursed within a period of three months, it shall, subject to the provisions of the previous

proviso, be remitted to the Bank or treasury officer.

239. Presentation Of Receipt :-

The person making any such deposit as aforesaid shall present therewith a memo, in form No.61, headed with the cause-title of the suit, appeal or matter, and specifying the purpose for which the deposit is made, and a receipt shall be granted to the depositor.

240. Repayment :-

(1) The repayment of any cash, which has not been extended for the purpose for which the same deposited shall be made upon the production of the receipt and under the immediate superintendence of the judge, who shall satisfy himself as to the identity of the person to whom such repayment is made and of his authority to receive it.

(2) Provided that if the amount so deposited or the unexpended portion there of has been sent by the Court to a Bank or treasury officer Rules 231 to 236 inclusive, shall apply to an application for repayment.

(3) If the applicant is unable to produce receipt, he shall file an affidavit accounting for its non-production.

241. Arrest Of Public Servant :-

Before a warrant is issued by a Civil Court for the arrest of a public servant (as defined in Section 21 of the Indian Penal Code) or a railway, postal or telegraph official, seven days notice may be given to the immediate Superior of the person to arrested.

Explanation: - In the case of a railway official, the expression immediate official superior shall include a railway official of the rank of Station Master, Foreman and Inspector but not one of lower rank. In the case of a postal official, the said expression shall mean the Superintendent of Post Office concerned. In the case of a telegraph official, the expression shall mean the Superintendent of Telegraphs of the concerned division.

242. Attachment Of Property In Custody Of Public Officer :-

If the property sought to be attached is in the custody of Public Officer, the execution petition shall ask that the property may be brought into Court and realized; and the notice of attachment shall request that the money or property may be brought into Court, or that such officer may state whether he has any and what objection to so doing. If any objection is raised by such officer, notice may be issued, in manner provided by Order XXVII of the Code for issue of summons, for the determination of such objection.

243. Attachment Of Decree :-

An application for the attachment of a decree shall also pray that the applicant may be at liberty to apply for execution thereof. If an order of attachment is made, it may be as in Form No.63 of 64 and the application shall be adjourned to a fixed day for the applicant to apply to the Court, or if the decree of another is attached, to the court, for execution of the attached decree, and shall be accompanied by certified copies of the order of attached decree was made; and shall be accompanied by certified copies of the order of attachment, and of the decree sought to be executed, provided that, if the attached decree is the decree of another Court other than a decree for money, the applicant shall also pray for the transmission of the decree sought to be executed, provided that, if the attached decree is the decree of another Court other than a decree for money, the applicant shall also pray of the transmission of the decree sought to be executed to the Court, and the Court may transmit the same accordingly, together, with a notice in Form No.65. The applicant may then apply to the former Court by execution petition entitled in the suit or matter in which the attached.

244. Decree Not To Be Sold In Execution Of Another Decree :-

No decree shall be ordered to be sold in execution decree.

245. Attachment Of Decree By Several Decree Holders :-

If a decree is attached by more than one decree-holder, liberty to execute the same shall be given to the decree-holder whose attachment is first in date and the Court shall direct any money or property recovered by the said decree-holder decree was made, for execution of its decree, to be brought into court for rateable distribution. Provided that, if the decree holder to whom liberty is given as aforesaid does not show due diligence in executing the attached decree, or for any other sufficient reason the court may give to any other decree holder liberty to execute and attached decree in place of former decree holder.

246. Claim To Attached Property :-

An application by a claimant or objector, under Rule 581 or Order XXI of the Code shall be made by a verified execution application entitled in execution petition under which the property in question has been attached and shall set forth particulars of the claim in the manner prescribed for the plaint in a suit as form No.66.

247. Procedure When Application Admitted :-

If the application is admitted, the claimant or objector shall, within seven days thereafter or such other period as may be allowed by the judge, bring into court the prescribed fees for service of notice on the attaching creditor, and the same shall be served in manner prescribed for service of summons on a defendant to suit.

248. Hearing Of Application Of Provisions :-

At the hearing of the application on the court shall record the evidence, and mark all exhibits admitted in evidence and shall draw up its order thereon.

249. Extension Of Application Of Provisions :-

The provisions in Rules 246 to 248 shall apply, so far as they maybe, to application under Order XXI, Rules 97 and 100 of the Code.

250. Realisation Of Attached Debts By The Appointment Of Receiver :-

(1) Unless it is made to appear to the court that, from the smallness of the amount of the debt attached, or otherwise, the appointment of a receiver to collect the same would be useless or vexatious, no debt or right to any periodical payment shall be realized by sale.

(2) If a receiver is appointed, he shall be empowered to sue in the name of the judgment-debtor and to rant receipts for any moneys or property recovered by him; and the order appointing him may be in the form prescribed by paragraph 7 of Form No.5 of Appendix III-D 2 so far as it may be applicable.

251. Realisation Of Property Attached By Seizure :-

When an attachment of property is made by actual seizure, the court shall, if within one month from the date of the attachment, the property has not been sold or the attachment has not been removed, of its own motion, direct the property to be sold by the officer of the court; and the proceeds of the sale after payment of the expenses of the sale, and the prescribed fee shall be brought into court to the credit of the suit or matter in which the attachment was made.

252. Attachment Of Moveable Property :-

When an attachment of property is made by actual seizure, the court shall, if within one month from the date of the attachment,

the property has not been sold or the attachment has not been removed, of its own motion, direct the property to be sold by the officer of the court ; and the proceeds of the sale after payment of the expenses of the sale, and the prescribed fee shall be brought in to court to the credit of the suit or matter in which the attachment was made.

253. Cash, Jewels Etc. :-

(1) If the property attached consists of Government or other securities, jewels or other valuable articles of small bulk, the Nazir shall keep the same together with a descriptive list in a box (other than the ordinary cash chest of the court) under lock and seal and send the box for safe custody to the nearest Government Treasury under the orders of Judge.

(2) In other cases, attached property brought brought to the court shall be retained by the Nazir in the court house if it can conveniently be stored or kept there.

254. Custody Of Fire-Arms Etc :-

When the property attached is a fire-arm or explosive substance, it may be sent at once the officer-in-charge of the nearest Police Station who shall hold in subject to the further order of the court.

255. Payment Of Charges :-

(1) The District Judge shall fix, any may, from the time to time, alter the rates to be charged for the maintenance of very description of livestock attached by the several courts in its district with reference to reasons and local conditions.

(2) Every person applying to the court to attach moveable property shall, in addition to the process fee, deposit such reasonable sum as the court may direct for the cost of its removal to the court house and of its custody and if such property is livestock, for its maintenance in accordance with the prescribed rates. If such deposit when ordered, be not made, the attachment shall not issue.

(3) The court at may time during the pendency of an attachment direct the decree holder to pay into court within a specified time, such additional sum as may be necessary to cover the costs for attachment, transport maintenance and custody of property and if such payment is not made within the time prescribed may withdraw the attachment.

256. Curator :-

(1) In order to provide for the custody of property which cannot be conveniently stored or kept in the court-house, the District Judge

may appoint for any court or group of courts a Curator who shall furnish security in any form applicable to a Government servant, for an amount to be fixed in each case by the District Judge.

(2) Every Curator and Nazir shall maintain the register of attached moveables in Civil Register Nos. 30 and 31 respectively.

(3) The curator or the Nazir as the case may be shall be responsible for the due custody and preservation of all property entrusted to him until he delivers it up under the orders of the Court

257. Remuneration :-

The Curator shall receive such sums for his remuneration and expenses incurred for the custody and preservation of attached moveables as the District Judge by general rule or the court by special order, may prescribe.

258. Application For Sale Of Attached Property :-

The decree-holder may apply, at an adjourned bearing of the execution petition orally, and at any other time, by written application in Form No.67, for the sale of any attached property.

259. Affidavits And In The Case Of Immoveable Property Certificate To Be Filed By The Applications :-

The applicant shall, not less than five days before the adjourned hearing or together with his written application, file in court an affidavit or affidavits stating the interest of the judgment debtor in the attached property, and whether any person other than the judgment debtor has any, and what interest, therein; and, in the case immoveable property, then an amount for the realization of which the seal is held exceeds Rs.100/- or when the court so orders, that a search has been made in the office of the Registrar of Assurance of the district, or sub-district, in which the property is situate, for not less than 12 years prior to the date of attachment. In the case of immovable property situated within the limits of a municipality, a certificate from the municipality showing the particulars of municipal tax due on the property shall also be filed.

260. Order For Sale :-

If the provisions of the Code and these rules have been complied with and the proclamation of sale is approved by the Judge, the application shall then be adjourned to a fixed day and the applicant shall, within two days or such other period as may be fixed by the Judge, bring into court the prescribed fees proclamation. An order for sale shall then be made. The battta for the sale warrant shall be paid a week before the date fixed for sale and the warrant of sale

shall then issue. In case of default, the court may adjourn the application to a fixed day or may dismiss the execution petition.

261. Date And Place For Sale :-

The District Judge shall fix particular place and a particular day in the week or the sale of such moveable properties as may be brought to court. When there are more courts than one in the same station, the sales for all such courts shall be held on the same day, and in the same place, in such sequence as the District Judge may by general or special order, determine. All sales at court shall begin at noon, and the sale of any lot, not put up before 5.00 p.m shall be adjourned to, noon on the next court day.

262. Sale Of Livestock Etc :-

Unless the court otherwise orders, all sales of livestock agricultural produce, articles of local manufacture and other articles commonly sold at village markets which have been brought to the court, shall be held at such markets which have been brought to the court shall be held at such market in the neighborhood of the place where the articles were attached as may appear to be for the greatest advantage of the judgment debtor, regard being had to the prospect of good prices and the saving of expenses of transport.

263. When Moveable Property Is In Custody Of Nazir Or Curator :-

If moveable property is in the custody of Nazir or Curator, and it appears to the court that an immediate sale is necessary, the court may authorise him to sell the same by public auction and may give such directions to the date and place of sale and the manner of publishing the same as the circumstances of the particular case admit.

264. Sale By Public Auction :-

If the officer attaching moveable property is, under Order XXI Rule 43 of the Code, authorized to sell it at once, the sale shall be made by public auction, and after such publication and notice as the circumstances to the particular case admit and the officer shall, not more than two days after the sale, bring into court, his report of the sale, in manner prescribed by Rule 278.

265. Applicability Of General Rules About Sale Of Property Infra :-

Subject to the foregoing rules the provisions of rules 271 to 285 relating to sale of property under order of court shall apply to all

sale in execution of a decree.

266. Sale Of Arms, Ets :-

Whenever guns or other arms in respect of which licences have to be obtained by purchasers under the Arms Act (Act No. LIV of 1959) are sold by public auction in execution of decrees the court directing the sale shall give due notice to the District Magistrate concerned of the names of and addresses of the purchasers and of the time and place of the intended delivery to the purchasers of such arms. The court before delivery of such arms shall satisfy that the purchasers are entitled to purposes arms.

267. Articles Of Petty Value :-

If the total of the Property attached, is in the opinion of the court, less than Rs. 25/- the court may order the sale of such property after notifying, on the notice-board of the court, the date and time of sale, and sale proceeds, after defraying the expenses shall be treated as attached property.

268. Charges Of Custody :-

(1) In cases in which expenses are incurred for the care and custody of attached moveable property such expenditure shall not be allowed for a period longer than 30 days, provided, however, that it shall in no case exceed the value of the property, The person-in-charge may, however. In the case of postponement of sale, apply to the Court at the end of every period of 30 days for an order for payment of such expenditure.

(2) Where post ponement of sale is occasioned by the intervention of a claim to attached property, the expenses incurred during the period of postponement shall be borne by the claimant. If he fails to establish his claim, and by the attaching creditor, if such claim is allowed.

269. Application By The Surety For Discharge Of Sale :-

When attached moveable property is left in the custody of a surety, the surety may apply for its sale, or for his being discharged from liability . The Court shall direct notice of such application to issue to the parties at the surety's cost and if the parties interested do not take steps to get the properties sold or released within the time fixed, it may be sold and the proceeds shall be deposited in the court, after paying the surety the charges for custody and for issuing the notice.

270. Disallowing Custody Charges :-

When attached moveable property is left in the custody of a surety, the surety may apply for its sale, or for his being discharged from liability. The Court shall direct notice of such application to issue to the parties at the surety's cost and if the parties interested do not take steps to get the properties sold or released within the time fixed, it may be sold and the proceeds shall be deposited in the court, after paying the surety the charges for custody and for issuing the notice.

271. Conduct Of Sale Under Order Of Court :-

Subject to the provisions of Rules 258 to 264 inclusive, with respect to the sale of attached property, a sale by public auction of any property, when directed in any suit or matter shall be conducted in manner prescribed hereunder.

272. Manner Of Conducting Sale By Public Auction :-

The order for sale shall direct the party applying for the sale hereinafter called the applicant to bring into court:-

(1) Affidavits:- An affidavit or affidavits by himself or some other person acquainted with the property, giving the particulars prescribed by Order XXI Rule 66 of the Code, and also stating what, in his opinion, is the best time and place of sale and method of advertising the same and the lots if any in to which the property should be divided.

(2) Affidavits of fitness:- If an officer of the court is not to be appointed, an affidavit as to the fitness of the proposed auctioneer.

(3) Where the property is immovable property situated within the limits of a Municipality, affidavit stating the Municipal tax if any, due on the property sought to be sold, and the affidavit shall be accompanied by a certificate from the municipality showing the particulars of tax due: and

(4) Certificate of search:- In the case of immovable property when a search has been made under Rule 273, a certificate of the result of the search.

273. Search Of Encumbrances :-

In the case of a sale of immovable property, the applicant shall when the amount for the realization of which the sale is held 1 exceeds Rs.100 2 and in any other case in which the court so orders, causes a search to be made in the office of the Registrar of Assurances of the district in which the property is situated. If a previous search has been made in the suit or matter, the search

shall be made from the date on which the previous search was made, but so that the whole period shall be not less than 12 years, or, if no search has been made then for a period of not less than 12 years prior to the date of the execution application on which the sale is ordered 1.

274. Matter To Be Determined By Court :-

The court shall determine the lots, if any, in which the property shall be sold; the manner of advertising the sale; and the probable expenses thereof; and shall fix the date and place of sale., and, after giving notice to the Judgment-debtor or other party to the suit or proceeding whose property is to be sold and hearing his objects, if any, settle the proclamation of sale, as in Form Nos. 69 & 70

275. Appointment Of Person To Sell :-

The court , if it is made to appear that a more advantageous sale can be had thereby or for other sufficient reason appoint a fit person, other than an Officer of the Court or an Advocate, to sell the property, and may fix as his remuneration a sum certain, or a percentage on the net sale proceeds. Such remuneration shall include all personal and traveling expenses, but not the expenses of the sale.

276. Proclamation Of Sale :-

The Proclamation of sale, when settled by the Judge shall be signed by him, and an order for sale shall then be made; and the further hearing of the suit or proceeding shall be adjourned to a day not more than thirty one days from the day fixed by the court for the sale.

Note:- Under Rule 67(2) of Order XXI of the First Schedule to the Code of Civil Procedure, Civil Courts may direct the publication of the Proclamation of sale to immoveable property attached in execution proceedings in the Official Gazette or a local newspaper or in both. Where the property attached in immoveable property mortgaged to a land Mortgage Bank the proper course for the court will be to direct the publication of the sale proclamation in the local District Gazette so as to enable the collector to appraise the land Mortgage Bank concerned of the impending sale.

277. Leave To Bid :-

(1) An application for leave to bid at the sale shall be supported by an affidavit setting forth any facts showing that an advantageous sale cannot otherwise be had; and an undertaking shall be given by

or on behalf of the applicant, that, in the event of his being declared the purchaser of the property, or of any lot or lots, he will give credit, or will enter up satisfaction of the decree or order under which the sale is made, for the purchase money. Provided that if there are several decree-holders entitled to rateable distribution, the purchase money shall be paid into court.

(2) Upset price:- In case in which the court may consider that the applicant should not be allowed to bid for less than a sum to be fixed, it shall be competent to the court to give leave to bid at the sale, only on condition that the applicants bid shall not be less than the amount so fixed by the court. Which amount shall, as far as practicable, be of the lot or lots into which the property or of the property is divided for sale.

278. Conduct Of Sale :-

(1) The person appointed to sell the property shall conduct the sale in the manner prescribed by the Code for the sale of attached property, and shall, out of the deposit or sale moneys, so soon as the same are received by him, purchase court fee stamps to the amount of the poundage 2 if any, payable on the sale and shall bring the same into court forthwith, together with the balance of the deposit or sale moneys. If the applicant purchased the property with the leave of the court, and is allowed to set off purchase money against any sum due to him he shall pay the amount chargeable for poundage to the person appointed to sell the property so soon as he is declared to be the purchaser. The amount deducted or paid on account of poundage shall form part of the costs and expenses of the sale.

(2) Upon the completion of the sale, the person appointed to sell the property shall file in court his report of the sale as in Form No.71.

279. Application To Set Aside Sale :-

In the case of any application under Order XXI, Rules 89, 90 or 91 of the Code to set aside a sale, the application under Order XXI Rule 91, give to the parties to the suit or proceeding not less than five days notice in writing of the application, setting forth his objections to the sale or the confirmation thereof, If no such notice or insufficient notice is given, the court may adjourn the hearing and order the person in default to pay to the other parties their costs of the adjournment, or may dispose of the application forthwith. If no application to set aside the sale is made, or if such

application is made and disallowed, the court shall make an order confirming the sale. An application under Order XXI, Rule 89 of the Code, may be as in Form No.72

280. Costs :-

At the adjourned hearing the court may make an order directing the payment to the applicant of the costs and expenses of the sale and to the person appointed to sell the property of his commission, if any, and providing for the application of the balance of the sale proceeds. If under Order XXI, Rule 81 of the code a vesting order is required, the order shall also direct that the property sold shall vest in the purchaser.

281. Refund Of Poundage :-

(1) If the sale is set aside under Order XXI, Rule 89 of the Code, the court may make an order for payment by the judgment debtor of applicant at whose instance the sale is set aside, of the poundage, costs and interest, if any, not covered by the proclamation of sale. 1The amount deducted as poundage from the deposit made by the purchaser shall be refunded to him.

(2) If the sale is set aside under Order XXI, Rule 20 of the code, the court shall determine whether any and what party is responsible therefore and may order such party to pay the costs and expenses of the sale, the may make an order any other party entitled to have the property sold may have the property sold may have the conduct of the sale and may make an order for the re-sale of the property.

(3) If the sale is set aside under Order XXI, Rule 91 of the Code, the court may make an order for payment by the execution creditor of the poundage and other costs of the sale.

282. Sale Certificate :-

(1) A certificate of sale of immovable property shall specify as part of the description of the property, the survey number, if any, and the registration or sub-district in which the same is situate.

(2) All sale certificates of immovable property shall be engrossed on stamp papers of proper value and copies thereof be forwarded to the registering officer or officers under Section 89 of the Registration Act (Act XVI of 1908) within three daysfor the issue of the certificate.

(3) The copy sent to the registering officer shall disclose the stamp value of the documents and the registering officers to whom copies of the sale certificates are being sent certificates shall be drawn up

without delay and the certificates are being sent within whose jurisdiction any part of the property is situate.

(4) The sale certificates shall be drawn up without delay and the certificate ready for delivery shall be notified, on the notice board of the Court within 24 hours of its signature by the Judge.

(5) Where a court sale is finally set aside the court setting it aside shall send a copy of the order to the registering officer or officers in whose office a copy of the sale certificate has been filed.

283. Default By Applicant :-

If at any time it is made to appear to the court that the applicant has failed to comply with any order of the court, or any of the provisions of the Code or these rules, or is not proceeding with due diligence, the court may make such order as to the application for sale, or the suit or matter, and the costs there of, as it thinks fit.

284. Acceptance Of Guarantee Societies As Sureties :-

(1) Notwithstanding anything in the foregoing rules, in all cases in which a court requires a party to a proceeding to execute a bond with one or more sureties as guarantee society duly approved by the High Court may be accepted as surety upon its joining in a bond with the person ordered to give security. Note:-In case where specific form of surety bonds are not prescribed, courts are at liberty to adopt form No.8 and 5 in Appendix III-E and F respectively of Pat II, Vol.II with such variations as will suit the circumstances of the case. (H.C.Dis 68 of 1927)

(2) The High Court, may from time to time, after such inquiry as deems sufficient and subject to such conditions as it may deem fit to impose by a notification in the gazette, declare the names of the guarantee societies together with the names of their duly authorized agents, if any, qualified to join in a bond within meaning of the above sub-rule. The High Court may also for sufficient cause remove from the approved list the name of any such guarantee society or of any agent of any such guarantee society.

285. Notice To Surety :-

In an inquiry for the determination the liability which has been guarantee by a surety, the court shall give notice of the enquiry to the surety by registered post. But the cost of his appearance shall be borne by the surety himself unless the court otherwise directs.

286. Panel Of Suitable Persons To Be Maintained For Appointment As Receivers :-

Subject to the approval of the District Judge concerned the Presiding Officer of each court shall maintain a panel of legal practitioners and other persons with suitable qualifications from among whom receiver shall ordinarily be appointed.

287. Security To Be Furnished By The Persons Included In The Panel Of Receivers :-

Every person included in the panel shall within one month furnish security for the sum of Rs. 2,000 in favour of the Presiding Officer to secure his liability in respect of all receiverships to which he may be appointed. He shall furnish one or other of the following kinds of securities

- (a) immovable property;
- (b) cash;
- (c) a Government security;
- (d) fixed deposit or cash deposit in the Post Office Saving Bank
- (e) Post Officer Cash Certificate;
- (f) National Saving Certificates;
- (g) Bonds or Debentures issued by the Local Authorities in India as defined in Section 3(31) of the General Clauses Act, 1897 (Central Act X of 1897) (Local Authorities includes Port Trust). The security bond shall be in one of the Form Nos. 75, 76 and 77 of Appendix III - A of Part II of Volume II. Only on such security being furnished he may be considered for appointment as a Receiver. Such security shall be irrespective of the security, if any, that may be required of the Receiver by the Court under Order XL, Rule 3 (a).

288. Filing Of Accounts By Receiver :-

Unless otherwise ordered a receiver shall file his accounts once in every three months. The first of such accounts commencing from the date of his appointment and ending with the expiry of three months from such date, shall be filed within ten days after the expiry of the said period for three months and subsequent accounts brought down to the end of the three months period for which they are filed, shall be filed within ten days after the expiry of the said periods of three months.

289. Manner Of Filing Accounts :-

The accounts of the Receiver shall be in the form prescribed and shall be verified by affidavit in the form prescribed. Items shall be numbered consecutively.

290. Receiver To File An Affidavit :-

Where a Receiver has not since the date of his appointment or since the date of his last account, as the case may be, received or paid any money, he shall file an affidavit to that effect on or before the date on which he has to file accounts.

291. Books To Be Maintained By Receiver :-

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

292. Receiver To Open Account In A Scheduled Bank :-

Unless the court otherwise orders the receiver shall, as soon as may be after his appointment, open an account in the name of the receivership in a scheduled bank as defined in class(e) of Section 2 of the Reserve Bank of India Act, 1934, as the court may direct and shall deposit into it all monies received in the course of the receivership immediately on receipt thereof save any sums that may be required for current expenses. All payments by the receiver shall, as possible, be made by cheques drawn on the account.

293. Procedure To Adopt In Case Of Failure Of Duties By The Receiver :-

If a receiver fails to maintain true and regular accounts or fails to file his account into court on the due date without proper cause, or unduly delays the passing of his account by failing to appear before the passing officer or improperly retains any cash in his hands, the court may disallow the whole or any portion of remuneration due to him for the period of the account with reference to which default is committed and may also charge interest at a rate up to 12 percent per annum on the monies improperly retained by him for the period of such retention without prejudice to any other proceedings which might be taken against the receivers.

CHAPTER 17 Caveat

294. Presentation Of And Particulars To Be Stated In Caveat :-

(1) Every caveat shall be lodged with the Presiding Officer of the Court along with an affidavit by the Caveator or either personally or by his advocate. The caveat shall state the name, place of abode,

description, occupation and the address for the service on the caveator and where he is represented by an advocate the name and full address of the advocate. Such address for service must be within the local limits of the jurisdiction of the court and shall hold good in all subsequent stages of the proceedings.

(2) In addition to the particulars mentioned in Sub-rule (1), the caveat shall state the following particulars:-

(I) name, description, place of residence and full address of the person by whom an application has been or is expected to be made;

(II) full particulars of the claim or the subject matter in respect of which an application is expected to be made in a suit or proceeding, and the nature of relief likely to be sought. If an application has been made, particulars of the application and the suit or proceedings.

(III) Where the subject matter is immovable property, description of the property, description of the property sufficient to identify it.

295. Examination And Registration Of Caveat And Its Requirements :-

(1) Every caveat shall be entered in the register of caveats maintained for the purpose and examined by the Chief Ministerial Officer of the court. If he finds that the caveat complies with all the requirements he shall make an endorsement on the Caveat Examined and may be registered if he thinks that the Caveat does not comply with the requirements, he shall place the matter before the presiding officer for orders.

(2) Caveat returned for non-compliance with these rules or provisions of Sec.148-A of the Code shall be represented after rectification the time specified.

(3) The affidavit shall state the right and the interest of the Caveator and the grounds of the objections to the application.

(4) The caveat shall also be accompanied by a notice in duplicate duly filled in by the party or his counsel(***)¹.

(5) A court fee of 2(Rs. 10) shall be charged on every caveat.

296. Notice To Issue By Caveator :-

Where a caveat has been lodged the caveator shall serve without delay, notice of the caveat by registered post, acknowledgment due on the person by whom the application has been or is expected to be made and file in court proof thereof.

297. Copy Of Complaint, Application Or Proceeding To Be Served

On Caveator Before Filing :-

Any person or advocate instituting a suit or proceeding in respect of which a caveat has been entered in the Register of Caveats shall before filing the application, suit or proceeding serve a copy thereof upon the party by whom the caveat has been entered or upon his advocate and annexed to the plaint or proceeding a statement of such service.

298. Withdrawal Of Caveat :-

A caveat may be withdrawn by the party who has entered the caveat or by his advocate on an interlocutory application supported by an affidavit.

CHAPTER 18 Legal Aid to Indigent Persons**299. Panel Of Advocates Willing To Appear To Be Maintained :-**

(1) There shall be maintained in each court a panel of advocates willing to appear for the undefendant indigent person or persons in a suit or proceeding at the expenses of the State or free of charge. Such panel shall be prepared by the District Judge after consultation with the Presiding Officer of the court, the President of the Bar Association and such other persons as the District Judge may consider necessary.

(2) The panel may be revised by the District Judge at the end of each calendar year.

300. Contents Of Panel :-

(1) The panel to be prepared and maintained under sub-rule(1) of the Rule 299 shall be in two parts. The first part of the panel shall contain the names of suitable advocates who offer themselves to appear for the undefended indigent persons without charging any fee and party two there of shall have the names of such advocates as are willing to appear for such persons at State expense and are selected for the purpose.

(2) An advocate with a standing of not less than three years at the Bar shall be eligible for being brought on the panel. The District Judge shall, so far as may be, persuade competent senior lawyers to enlist themselves for representing indigent persons without charging any fee.

(3) The District Judge shall in the month of January in each year, communicate the names of the advocates on the panel maintained for each court in his district to the High court in the following form;-

- (a) Name of the advocate,
- (b) Date of birth
- (c) General reputation and standing at the Bar.
- (4) The Registrar, High Court of Andhra Pradesh, shall cause the panels for each district to be entered separately in a Register.
- (5) The District Judge or the High court may strike off the names of any advocate from the panel without assigning any reasons.

301. Assignment Of Advocate By Court :-

- (1) Where a person, who is permitted by a Court to use as an indigent persons under sub-rule(3) of Rule 7 of Order XXXIII of the Code, is not represented by an Advocate, the Presiding Officer of the court shall, if the circumstances of the case so require, assign an Advocate to him from the list.
- (2) In any case where it is decided to assign a pleader under sub-rule (1), the court shall endeavour in the first instance to select a suitable advocate from that part of the list which comprises to names of the advocates, if any, willing to appear for undefended indigent persons without charging any fee.

302. Time To Be Allowed To The Advocate Assigned For Preparation :-

- (1) Where an advocate is assigned to represent an indigent person at state expense or otherwise, the court shall allow a period of at least seven days to the advocate to prepare the brief and shall adjourn the hearing of the case for that purpose.
- (2) The court shall allow, free of cost, inspection of the record of the case by the advocate so assigned.

303. Fee Payable To Advocate Assigned :-

- (1) The fee payable to an advocate assigned to represent an indigent person at State expense, shall not be less than Rs. 50 and not more than Rs.300 for the entire case at the discretion of the Presiding Officer of the court.
- (2) In suitable case, the District Judge may, with the approval of the High Court, sanction fee not exceeding Rs.500.
- (3) If an advocate assigned to represent an indigent person is required to retire at any time after the engagement of an advocate by the indigent person at his own expense he shall be entitled to get as compensation an amount not less than Rs.50.

304. Order To Contain Advocates Fee And Costs :-

Where the indigent plaintiff represented by an advocate assigned

by the court succeeds, the order made under Rule 10 of Order XXXIII CPC shall also contain the advocates fee and other expenses calculated in accordance with the Advocates Fee Rules and Rule 55 of these Rules.

305. Advocate Engaged To Prepare Diary :-

An advocate engaged, to represent an indigent person in any court subordinate to the High court at State expense shall, at the conclusion of each day of hearing in the case, prepare and submit for counter-signature by the Presiding Officer of the court a diary containing the following details fully set out:-

Date	Case number and names of the parties	Name of the party represented	Duration of hearing	Work done	Signature of the presiding Officer	Remarks
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306. District Judge To Be The Controlling Officer For Payment And Audit Of Fees Of Advocates Engaged :-

(1) The District Judge shall be controlling officer for the payment and audit of all fees due to advocates engaged to represent indigent persons in courts subordinate to the High Court.

(2) The advocates shall submit their bills to the District Judge within one month of the disposal of the case by the court.

APPENDIX 1

APPENDIX A

Rule - Regulating Applications for and payment of the services of the Government Examiner of Questioned Documents

1. Application should be sent direct to the Government Examiner of Questioned Documents, Intelligence Bureau, Ministry of Home Affairs, "Dorner's". Simla - 1

2. (i) Application received direct from private individuals will not be entertained.

(ii) Application received from Police Officers below the rank of Superintendent of Police will not be entertained.

3. Acceptable applications fall into two classes:-

A. Official applications from:-

(i) State Governments (including Part C States), and officers Subordinate to them;

(ii) Presiding officers of Criminal Courts (including Sessions Courts) High Courts Martial, etc.,

(iii) Ministries of Government of India and their attached and sub-ordinate officer;

(iv) Railway administration under the Ministry of Railway (Railway Board)

B. Other applications - These include:-

(i) Cases from private parties in civil suits in Indian Union Courts, These will be accepted only on the requisition of the court in which the case is being heard. The party concerned must move the court and it will rest with the court to take the further steps necessary to obtain the services of the Government Examiner of Questioned Documents.

Examination:- Reference made by a Court suo motu in civil cases in which the state is not a party will be deemed to be cases from private parties for the purposes of

these rules,

(ii) Cases from municipal corporations, district boards, municipalities and other local bodies and from universities Railway Administration (not under the Ministry of Railways of the Government of India) from autonomous corporation and quasi-Government Bodies, eg. D.V.C.D.T.S., etc., with Indian Union.

Applications from recognized universities will be received direct. Applications from Railway Administrations (not under the Ministry of Railways Government of India) should be submitted through the Agent of the Railway concerned. Applications from Municipal corporations will be received direct but from other local bodies will be accepted only if received through the local district magistrate who should satisfy himself before forwarding the application, that it is desirable that the Government Examiner of Questioned Documents should be consulted.

(iii) Complaint cases, revenue cases, Tenancy Act cases, and other miscellaneous Act cases from Indian Union Courts. These cases will be accepted only if forwarded by Presiding Officers of Courts.

4. Applications falling under classes A and B will ordinarily be accepted but may be refused at the discretion of the Government Examiner of Questioned Documents if they cannot be undertaken without detriment of his other work.

5. An inclusive fee will be charged in each case in which an opinion is given and will normally cover the opinion, the cost of photographs and the giving of evidence, limited in class B cases to one day. The Inclusive fee for class A cases (See Rule 3) will be Rs.220/- and for class B cases Rs.250/- (This fee does not cover traveling allowance which is governed by Rule 15 below) where one class A is split up in court into several cases. If class B is split up in court into several cases, the fee will be Rs.200/- for each split up case.

6. Subject to the exception stated at the end of this rule, the fee is payable in advance in all cases and each application should be accompanied by a certificate in the following form:

"Certified that sum of rupees Two hundred and twenty (220) / Two hundred and fifty (250) has been deposited in the Treasury on on account of the Government examiner of Questioned Documents fee in case/suit No..... And that this amount has been shown under Head XXXIII Police-Central-Fees, fines and forfeitures, " in the cash Account of Central subjects for the month..... of And appears at item

No..... in the relevant Receipt Schedule.

Signature of treasury Officer Countersigned.

Signature of officer submitting the case.

In special circumstances, which should be stated in application Class A cases will be accepted without this certificate, but the certificate should be forwarded as soon as possible.

7. In case where the cost of photographs is exceptionally heavy the fee will be Rs.180/- plus actual cost of the photographs in Class A cases and in Class- B cases, Rs.200/- plus the actual cost of the photographs. In class B cases the authority submitting the case will be informed of the extra cost involved before it is incurred and will be required to certify that it has been deposited before the Government Examiner of Questioned Documents proceeds with the case.

8. (a) No fees are chargeable by the Government Examiner of Questioned Documents for the cases investigated by the Special Police Establishment and also for cases arising in -

(i) the main Ministries of the Central Government,

(ii) the attached officers, and

(iii) part C states who have no consolidated funds of their own within the meaning of Section 39 of the Government of part C.States Act, 1951 (No. XLIX of 1951)

(b) Fees are however chargeable in all other cases.

9. (i) cases in which no opinion is given but photographs are taken, only the actual cost of the photographs will be charged, subject to a minimum of Rs.35/-

(ii) in cases in which examination has been completed but no opinion could be expressed, a consolidated fee of Rs.103/- will be charged.

10. No reduction in the fee will allowed if evidence is not required is taken on Commission.

11. (i) In class B cases an additional fee of Rs.200/- will be charged for each day after the first day on which evidence is given, whether in court or on commission, or on which the officer is detained. The presiding officer or the commissioner will be requested to certify before the second and each subsequent days work is begun, that the fee for that day and also for any intervening day or days of detention has been deposited, and subsequently to furnish certificate in Rule 6 above.

(ii) A fee of Rs.250/- will be charged in a civil suit even for the first days evidence if evidence is taken up on the opinion expressed on the same documents when they formed part of a criminal case.

12. In case falling under class B, the Government Examiner or his Assistant will be prepared to attend courts provided that he can do so without detriment to his other work. When evidence is taken on commission, the commission should be issued to the Senior Sub-Judge, Simla and normally should be so worked that either the Government Examiner or his Assistant can give evidence.

13. Presiding Officer of courts are requested to detain the government examiner of Questioned Documents or his Assistant for the least possible time compatible with the requirement o the case. They are also requested to accept, so far as possible the time and dates for attendance offered by these officers, because the latter frequently have to attend several courts in the courts of one time.

14. The Government of India is the Ministry of Home Affairs reserve the right to impose an extra charge in any case in which they consider on that the usual fee is incommensurate with the time and labour spent on the case.

15. When the Government Examiner of Questioned Document or his Assistant is required to travel in order to give evidence or for any other purpose the authority or party employing his services will be required to pay traveling allowance at the rates laid down in the supplementary rules of the government of India for journeys on tour. Traveling allowances will also be payable for Class IV servant accompanying the officer at the rates fixed for Government of India, Class IV servants. These payments will be adjusted in the Home Department (now Ministry of Home Affairs) letter No.F128/VII/27-Police, dated 12th January, 1982 (Sec appendix) In class B cases the presiding officer of the court concerned will be required to certify that the court of traveling allowance has been deposited before the Government Examiner of Questioned Documents or his Assistant undertakes the Journey.

APPENDIX

Procedure For The Payment and audit of traveling Allowances Drawn By The Government Examiner of Questioned Documents or His Assistant During Tours (Vice Home Department Letter No.F 128/VII/27-Pol-dated the 12th January, 1928);

(1) The examiner or his Assistant should submit his traveling allowance bills to the Accountants General, Central Revenues, for audit and payment.

(2) As soon as a journey is completed that is in respect of any complete journey from headquarters to head-quarters, the Examiner or his Assistant should sent

statement to the Accountant- General Central Revenues, showing the total amounts of traveling allowance claimed or drawn and the distribution of the entire amount among the various courts for recovery

(3) In cases where several courts are attended, the cost should be distributed between them in proportion to the distance by rail from headquarters.

(4) As the traveling allowance is debitable to the various local Governments or the parties concerned, the recoveries should be treated as follows;

(i) Recoveries from the various local Governments shall be taken in reduction of expenditure provided they are effected within the accounts of the same year if not, they should be shown as receipts; and

(ii) Recoveries from parties such as local boards, local bodies, and private persons should be taken as receipts under the Head XXII -Police-Central -Final and Forfeitures,

(1) The Principles laid down above apply to the payment and audit of the traveling allowance of the peon accompanying the Examiner or the Assistant.

(2) If after the examiner or his Assistant has actually commenced tour, intimation is received from a court included in the tour to the effect that his evidence would not be required on the date originally fixed, the court shall pay the difference between the total expenditure actually incurred on the tour and the expenditure that would have been incurred if attendance in the court had not been included in the tour. This shall be specifically made clear when the bill is sent to the court for acceptance.

(3) The Examiner and his Assistant shall observe the provisions of (Copy of letter No.41/3/53-Police II. Dated 6th July, 1953, from the Deputy secretary to the Government of India)

Read:- G.O.Ms.No. 2445, Home Department, dated 31st July, 1953 issued by the Government of Madras.

The attention of all Courts is drawn to the instructions issued by the Government of India contained in the G.O. cited for the guidance of courts seeking the services of the Government Examiner of Questioned Documents, Simla.

The work of the Government Examiner of Questioned Documents, Simla, is mainly technical in character. He gives his opinion on the disputed documents referred to him after a meticulous and scientific examination. He also gives evidence in support of that opinion when required by the courts.

Naturally, the Government Examiner has to work under extreme pressure to keep abreast of his technical work at the Head-quarters and at the same time keep to the schedule of attendances at the courts.

The Government of India feel that the pressure on the time of the Government Examiner should be relieved.

The attention of all courts is drawn to paragraphs 12 and 13 of the instructions contained in the G.O. cited and it is necessary that those instructions should be strictly followed. All Courts should seek the attendance of the Government Examiner of Questioned Documents only when the requirements of any particular case demand it. Ordinarily they should be able to obtain his evidence on commission, which in civil cases should be issued to the Senior Sub-Judge, Simla and in Criminal Cases, under the provisions of Section 503 Cr.P.C. (old) (Section 284(1) of New Cr.P.C) (High Court Circular dated 19th February, 1954 in P.Dis.No. 110/54)

HIGH COURT OF ANDHRA PRADESH, HYDERABAD
CIRCULAR

Sub: Applications for requisitioning the services of the Examiner of Questioned Documents at Simla Appointment of a state Examiner of Questioned Documents,

Andhra Pradesh, at Hyderabad - Services - Requisition of - Instructions - issued. It has been brought to the notice of the High court that in requisitioning the services of the Government Examiner of Questioned Documents at Simla, some of the subordinate courts do not appreciate his difficulties or the difficulties of his Assistants, who besides actual examination of cases, have to attend courts all over India. The Government have since appointed a State Examiner of Questioned Documents for Andhra Pradesh at Hyderabad under the Administrative Control of the Inspector General of Police. The Government also propose to issue separate rules for regulating applications for and payment of fees to the State Examiner. The Presiding Officers of all subordinate courts are informed that in future, they should requisition the services of the State Examiner Office of the Inspector General of police). Hyderabad in all references relating to disputed documents. (Copy) of Roc.No. 7152/57-B-1, dated 24th February, 1958 in P.Dis. 418/58)

APPENDIX 2

APPENDIX B

Rules Regulating Applications for the Payment of Services of the Director, Scientific Section, C.I.,D., Branch, Andhra Pradesh.

1. Applications should be sent direct to the Director, Scientific Section C.I.D., Branch, Saifabad Lines (A.C.Guards) Government of Andhra Pradesh, Hyd-4 (Deccan)
2. (i) Application received from private individual will not be entertained.
(ii) Applications received from Police Officer below the rank of Superintendent of Police will not be entertained.
3. Acceptable applications fall into four classes namely:-
 - (a) applications from an officer not below the rank of Superintendent of Police in respect of Police Department, Presiding Officers of Criminal Courts and from the High Court, Andhra Pradesh.
 - (b) Applications from the Head of departments in respect of other departments of the Government of Andhra Pradesh;
 - (c) Cases from Municipal Corporations, district boards, Municipalities and other local bodies and from Universities in Andhra Pradesh;
 - (d) Cases from private parties in civil suits in Andhra Pradesh Courts. These will be accepted only in application from the court in which the cases are being heard. The party concerned must move the court and it will rest with the court, to take further steps necessary to obtain the services of the Director, Scientific Section, and C.I.C. Branch.

Explanation:- Reference made by a court suo motu in civil cases in which the state is not a party will be deemed to the cases from private parties for the purposes of these rules.

Note:- The Director, Scientific Section, C.I.D Branch, will give preference to applications received from the presiding officers of Civil and Criminal Courts over others Applications from recognized Universities will be received direct, Applications from municipal corporations will also be received direct, but those from other local bodies will be accepted only is received through the competent District Magistrate or the Additional District Magistrate as the case maybe, who should satisfy himself before forwarding the applications, that it is desirable that the Director, Scientific Section, and C.I.D. Branch, should be consulted.

4. Applications falling under the above clauses of (b) (c) and (d) will ordinarily be accepted but may be refused at the discretion of the Director, Scientific Section C.I.D. Branch. If they cannot be undertaken without detriment to his other work.
5. No fees are chargeable for cases coming under class (a). An inclusive fee of

Rs.220/- will be charged for each case under class(b) in which an opinion is given and will normally cover the opinion is given and will normally cover the opinion, the cost of photographs and the giving of evidence limited to one day.

This fee does not cover traveling allowance with regard to class(c) and class (d) cases which is governed by Rule 13 below.

6. Subject to the exception stated at the end of this rule, the fee is payable in advance in all cases and each application should be accompanied by a treasury challan showing the payment of the amount under the head of account "XXIII- Police b Miscellaneous (iv) Fees for the Director, Scientific Section, C.I.D., Branch, Andhra Pradesh".

In special circumstances, which should be stated in the application, . Class b cases will be accepted even without this challan, but the challan should be forwarded as soon as possible.

7. In cases where the cost of photographs is exceptionally heavy the fee will be Rs.180/- plus actual cost of the photographs in class (b) cases, Rs.200/- plus the actual cost of photographs in class (c) cases and Rs.225/- plus the actual cost of photographs in class (d) cases.

In class © and in Class(d) cases, the authority submitting the cases will be informed of the extra cost involved, before it is incurred and will be required to certify that it has been deposited before the Director or his Assistant Scientific Section C.I.D Branch, proceeds with the case.

8. (i) In cases in which no opinion is given but photographs are taken, only the actual cost of the photographs will be charged, subject to a minimum of Rs.35/-

(ii) In cases in which examination has been completed but no opinion could be expressed, a consolidated fee of Rs.100/- will be charged No reduction in the fee will be allowed if evidence is not required or is taken on commission. " The Deputy Inspector -General of Police, Railways and C.I.D., shall be the authority who is competent to sanction refunds".

9. (i) In class (c) cases an additional fee Rs.100/- and in class (D) cases an additional fee of Rs.200/- will be charged for each day after the first of day on which evidence is given whether in the court or on commission, or on which the officer is detained. The presiding officer or the commissioner will be requested to certify before the second and each subsequent days work is begun that the fee for that day and also for any intervening day or days of detention has been deposited. And subsequently to furnish a certificate referred to in Rule 6 above.

(ii) A fee of Rs.250/- will be charged in a civil suit even for the first days evidence if evidence is taken upon an opinion expressed on the same documents when they formed part of a Criminal case.

10. In cases under class © and in class (d) and Director or his Assistant, Scientific Section C.I.D., Branch will be prepared to attend courts provided that he can do so without detriment to his other work. When evidence is taken on commission, the commission should be issued to a Chief City Magistrate, Hyderabad.

11. Presiding Officers of Courts are requested to detain the Director or his Assistant Scientific Section C.I.D. Branch for the least possible time comparable with the requirements of the case. They are also requested to accept, so as far as possible, the time and dates for attendance offered by this officer, as the latter has frequently to attend several courts in the courts of one tour.

12. The Government of Andhra Pradesh in the Home Department reserves the right to impose an extra charge in any case in which they consider that the usual fee is not commensurate with the time labour spent on the case.

13. When the Director or his Assistant, Scientific Section, C.I.D, Branch is required to travel in order to give evidence for any other purpose the authority or party

employing his services is required to pay traveling allowance at the rates laid down by the Government of Andhra Pradesh for journeys on tour. Traveling allowance will also be payable for the peon accompanying the officer at the rates fixed for Government of Andhra Pradesh peons.

In class © and in class (d), cases, the presiding officer of the court concerned will be required to certify that the cost of traveling allowance has been deposited before the Director or his Assistant, Scientific Section, C.I.D., Branch, undertakes the journeys. G.O.Ms.No. 2033, dated the 30th August, 1958 and G.O.Ms.No. 1248- Home(Personnel-B) Department, dated the 30th May, 1959 in P.Dis 483/58)