

The Rules of the High Court of Orissa, 1948

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The Rules of the High Court of Orissa, 1948Part - I Chapter - IPlace of sitting of the High Court of OrissaThe High Court of Orissa and the Judges and Division Courts thereof shall sit at Cuttack.Chapter - II Rules for the Disposal of Non-Judicial Business

1.

The High Court office shall consist of two Departments; namely, the Administrative Department by which is meant the administrative business of the Court on its Appellate Side and the Judicial Department which shall mean and include all the rest of it.

2.

There shall be Standing Committee composed of the Chief Justice and two or more Judges to be appointed from time to time by the Chief Justice.

3.

The Standing Committee shall be charged with the control and direction of the Subordinate Courts so far as such control and direction are exercised otherwise than judicially.

4. [[Substituted vide C.S. No. 15 (X-1/84, dated 17.7.1984).]

The Standing Committee shall have power without reference to the Judges generally -(i)to dispose of all correspondence, within its own department, urgent in nature and not of general importance;(ii)to make recommendations regarding the confirmation of Munsifs, Subordinate Judges and Chief Judicial Magistrates;(iii)to issue orders regarding the crossing of efficiency bars by

Munsifs, Subordinate Judges and Chief Judicial Magistrates;(iv)to promote Munsifs to the rank of Subordinate Judges;(v)to promote Subordinate Judges to the rank of Chief Judicial Magistrates;(vi)to select Subordinate Judges for exercising powers of an Assistant Sessions Judge;(vii)to deal with transfer and posting of Munsifs, Subordinate Judges and Chief Judicial Magistrates;(viii)to deal with the revision of cadre strength of Chief Judicial Magistrates,Subordinate Judges and Munsifs;(ix)to deal with the recommendations regarding deputation of Judicial Officers other than officers of the Superior Judicial Services (Senior Branch) to hold posts under the State Government and other authorities;(x)to deal with the allegations and adverse reports received against' Judicial Officers other than officers of the Superior Judicial Service (Senior Branch);(xi)to deal with the pension application of Judicial Officers;(xii)to make recommendations regarding the degradation and suspension of Chief Judicial Magistrates, Subordinate Judges and Munsifs;(xiii)to dispose of any matter which may be referred to the committee for opinion; and(xiv)to approve the list of Civil Courts holidays.All matters regarding amendment of rules of the High Court's General Rules and Circular orders, Civil and Criminal issue of General Letters and Circular Orders and any change of practice or procedure shall be placed before the Full Court.]

5.

Every order passed and every draft letter approved by the Standing Committee shall be signed by each member of it.

6.

The Chief Justice may be from time to time apportion the executive and administrative business of the Administrative Department among the Judges constituting the Standing Committee.[Special-Committee] [Substituted vide C.S. No. 69 (X-1/99, dated 24.11.1999).]

7.

The Chief Justice may constitute Special Committee consisting of one or more Judges to consider and dispose of matters, specially or generally, referred to it by him.

8.

Such a Committee shall have power, without reference to the Judge generally, to enter upon, and conduct, any correspondence which the members may consider desirable in order to enable them to finally dispose of the matters.

9.

Every order passed and every draft letters approved by a [Special Committee] [Substituted vide C.S. No. 69 (X-1/99, dated 24.11.1999).] shall be signed by each of its members.Appeal Committee

10.

(1) There shall be an Appeal Committee consisting of three Judges of the Court to be nominated by the Chief Justice from time to time for the disposal of appeals and representations made to the Courts on the administrative side by ministerial officers in Class III and by Class IV employees of the subordinate Courts. (2) Every final order passed by the Committee on the appeal or the representations, as the case may be, shall be signed by all the members of the Committee. (3) The decision of the Committee shall be final. General

11.

It shall be the duty of the Registrar to submit all papers relating to any matter to the Committee, if any, appointed to deal with it.

12.

In all cases in which the Standing Committee has acted under Rule 13 or a [Special Committee] [Substituted vide C.S. No. 69 (X-1/99, dated 24.11.1999).] under Rule 7, the correspondence shall be laid on the table for information of the Full Court and a notice shall be circulated weekly to all the Judges of the matters which have, during the past week, been laid before such Committee showing whether they have been disposed of and what manner.

13.

It shall be competent to any Judge to require that any matter within the cognizance of any Committee shall be referred to the Full Court.

14.

On the following matters all the Judges shall be consulted : (i) proposed changes in the law where the proposition emanates from Government or in other cases where a Committee or any Judge of the Court considers that action is called for; (ii) Administrative Reports yearly submitted to Government when passed by the Judges of the Standing Committee; (iii) rules which, when published, will have the force of law; (iv) subjects connected with relating between the Supreme Court and the High Court; (v) all appointments which by law are made by the High Court and which are not otherwise expressly provided for by these rules; (vi) disciplinary proceedings against judicial officers; (vii) important questions of policy or those affecting the powers and status of the Court; (viii) crossing of the efficiency bar by District and Sessions Judges; (ix) selection of District and Sessions Judges for being allowed the selection grade and the super-time scale; and (x) confirmation of District and Sessions Judges; (xi) [All matters relating to promotion, posting, transfer and deputation of the Officers of the Orissa Superior Judicial Service (Senior Branch) [Added vide C. S. No. 16 (X1/84, dated 17.7.1984).].

15.

Any individual Judge shall be at liberty to record separate minutes upon any matter that comes before the Full Court for discussion; but no such minutes shall be submitted to Government by the Registrar unless or until the same have been circulated to the rest of the Judges;

16.

Except for some special reasons, the papers relating to any matter for discussions at a meeting of the Full Court shall be circulated to all the Judges at least one day before the day of the meeting.

17.

The proceeding of all meetings of the Full Court, of the Standing Committee and of the Special Committee shall be recorded in books to be kept for that purpose by the Registrar and shall be, at all times, open to inspection when called for, by any of the Judges. Chapter-III Jurisdiction of Single Judges and Benches of the High Court

1.

The following matters may be heard and disposed of by a Single Judge : (i) an appeal from an original decree and any cross objection therein under Order XLI, Rule 22 of the Code of Civil Procedure arising out of an original suit or any proceeding the value of which did not exceed [Rs. 25 Lakhs] [Substituted vide C.S. No. 76(O.G.No. 22 dated 1.6.07).]; (ii) an appeal from an appellate decree or order; (iii) a civil appeal under an Act other than the Code of Civil Procedure and an application or reference made under any such Act, if such appeal, application or reference is not otherwise expressly provided for irrespective of value; (iv) an appeal under Section 104 (1) (ff) to (h) or under Order XLIII, Rule 1 of the Code of Civil Procedure in a suit irrespective of value; (v) a motion to admit an application and an application when admitted: (a) for an order under Section 22 or Section 23 of the Code of Civil Procedure; (b) for an order under Order 1, Rules 8 and 10 read with Section 107 of the same Code; (c) under Section 115 of the Code of Civil Procedure or under Section 25 of the Provincial Small Cause Courts Act (IX of 1887); (vi) an application for the admission of an appeal in forma pauperis when such appeal is triable by a Single Judge; (vii) a suit coming before the Court in the exercise of its ordinary or extraordinary original civil Jurisdiction; (viii) a proceeding under the Indian Companies Act, I of 1956, the Indian Trust Act II of 1882, the Indian Patents and Designs Act II of 1911 or the Indian Banking Companies (Amendment) Act XX of 1950; (ix) an application against the order of the Registrar when performing a judicial or quasi-judicial act in a Single Bench case; (x) any other application- (a) which under these rules may be made to a Judge sitting alone; (b) which under issue is not expressly required to be made for a Bench of two or more Judges or to the Registrar; and (c) which is made in any matter within the jurisdiction of a Judge sitting alone and which is not otherwise expressly provided for; (xi) an appeal, application or reference under the Code of Criminal Procedure, 1973 other than - (a) an appeal in a case in which a sentence of death or imprisonment for life has been passed; (b) an appeal under Section 378 of the Code of

Criminal Procedure from an order of acquittal passed in respect of an offence punishable with death or imprisonment for life except an offence under Section 409 of the Indian Penal Code;(c)a case submitted under Section 366 of the Code of Criminal procedure; and(d)a case in which a notice has been issued under Section 377 or Section 401 of the Code of Criminal Procedure to show cause why the sentence should not be enhanced relating to an offence punishable with death or imprisonment for life;Provided that -(a)a Judge may, if he thinks fit, refer any matter mentioned in any of the clauses of this rule other than Clauses (viii) and (ix) to a Bench of two Judges. If the case is an appeal from an original decree or order, the questions of law shall alone be referred and the Division Bench shall return the case with an expression of its opinion upon the points of law for final adjudication to the single Judge who referred it, and in case of necessity in consequence of the absence of the referring Judge, for the ultimate decision of another single Judge;(b)a Judge before whom any proceeding mentioned in Clause (viii) is pending may, with the sanction of the Chief Justice, obtain assistance of any Judge or Judges for the hearing and determination of such proceeding or of any question arising therein;(c)any application in a suit, appeal or other proceeding which is pending before a Bench shall be presented to that Bench; and(d)any application in suit, appeal or other proceeding which is in the Daily Cause List of a Bench shall be presented to that Bench.(xii)[Transfer Applications [Substituted vide C.S. No. 75 (O.G.No. 22 dated, 1.6.07).](xiii)Criminal Appeals, Government Appeals, Misc. Appeals and Jail Criminal Appeals.(xiv)Criminal Revisions(xv)Applications for bail or Anticipatory bail matters.(xvi)Petitions arising out of Civil Revisions(xvii)Petitions arising out of Section 24 C.P.C.(xviii)Petitions arising out of F.A.O.(xix)Petitions arising out of M.S.A.(xx)Petitions arising out of M.A.C.A.(xxi)Petitions arising out of Suit(xxii)Petitions arising out of Major Minerals and Minor Minerals.][[(xxiii)] [Inserted vide C. S. No. 27 (X-5/86, dated 22.8.1986).]AM cases of routine nature not involving any question of law or merits of the case, shall be placed before a Single Judge for orders irrespective of the fact as to whether the cases are Single Judge or Division Bench cases, and he may while disposing of the matter exercise the powers of dismissal in case of non-compliance:]Provided that all the interlocutory petitions registered as Miscellaneous cases which demand going into question of law or merit would be placed before the Division Bench, if the cases in which those matters arises are required to be heard and disposed of by a Division Bench.

2.

Matters connected with appeals to the Supreme Court where written applications are made shall ordinarily be laid before the Single Judges or the Division Bench, as the case may be, disposing of the matters. If such Single Judge or the Division Bench is not available, it may be placed before the Bench presided over by the Chief Justice.

3.

A proceeding of the kind referred to in Rule 1 (viii) and Rule 1 (xi) of this Chapter may, in the discretion of the Bench hearing the same, be heard either in Court or in Chamber as it may direct. An ex parte motion or application entertainable by a Single Judge may be made in Court or in Chambers as the Judge may direct. An urgent application may be made to the Vacation Judge in Court or otherwise as he may direct. Every other appeal, motion or application except when

specifically provided otherwise shall be presented or made in open Court.

4.

Notwithstanding anything to the contrary contained in these rules, a Single Judge, while acting in long vacation as a Vacation Judge, may issue notice or rule, as the case may be, in any matter which he considers emergent, Civil or Criminal or under the Constitution, and may pass such interim orders regarding stay, injunction, bail and other interim relief as he may deem fit.

5.

When in appeal in any civil matter heard by a Bench of two Judges, a difference of opinion arises between them on a point of law, if either of the Judges desires that the appeal be referred, it shall be referred to and heard and determined by such Judge or Judges as the Chief Justice may appoint. The appeal shall be re-argued before the Judge or Judges to whom it is so referred either sitting apart from or with the referring Bench as the Chief Justice shall direct.

6.

Appeals to the High Court under Article 4 of the Orissa High Court Order, 1948 read with Clause 10 of the Letters Patent constituting the High Court of Judicature at Patna from the Judgement of a Bench confirming the judgement of a lower Court under Section 98 of the Code of Civil Procedure shall be heard by a Bench consisting of at least three Judges including both or either of the Judges of the Bench from whose Judgement the appeal is preferred and, if from the Judgement of one Judge or a Bench of two Judges, it shall be heard by a Bench consisting of at least two Judges other than the Judge from whose Judgement the appeal is preferred.

7.

References under the Indian Divorce Act (IV of 1869) and under Section 60 of the Indian Stamp Act (II of 1899) must be placed before a Bench of three Judges.

8.

A charge against a Pleader or Mukh tar in respect of any misconduct for which he may be suspended or dismissed from practice and a disciplinary case under the Legal Practitioners' Act (XVIII of 1879) shall be heard by a Bench of three Judges.

9.

A point of law referred under the provisions of Article 4 of the Orissa High Court Order, 1948 read with Clause 18 of the Letters Patent constituting the High Court of Judicature at Patna shall be heard by a Bench of three Judges.

10.

Save as provided by law or by these rules or by an order of the Chief Justice every other case shall be heard by a Bench of two Judges.

11.

Subject to the provisions of these rules, the Chief Justice shall direct what case or classes of cases shall be placed before each Judge or Bench.

12.

Notwithstanding anything to the contrary in the rules, the Chief Justice may direct that any application, petition, suit, appeal or reference shall be heard by the Full Bench, by which is meant a Bench composed of not less than three Judges. Chapter-IV Reference to the Full Bench

1.

Whenever a Division Bench desires and the Chief Justice consents that any case shall be referred to a Full Bench or whenever in any case a Division Bench differs from any other Division Bench upon a point of law or usage having the force of law, such case shall be referred for decision by a Full Bench.

2.

If the case is an appeal from an appellate decree, the Bench shall state the point or points which they desire to refer or upon which they differ from the decision of a former Division Bench, as the case may be, and shall refer the appeal for the final decision of a Full Bench.

3.

If the case is an appeal from an original decree or order, the questions of law shall alone be referred and the Full Bench shall return the case with an expression of its opinion upon the points of law for final adjudication by the Division Bench which referred it, and in case of necessity in consequence of the absence of all or any of the referring Judges, for the ultimate decision of another Division Bench.

4.

If the case is one which has come before a Division Bench in the exercise of its Civil Revisional Jurisdiction, the point or points shall be stated as provided in Rule 2 and the matter shall be referred for the final decision of the Full Bench.

5.

If the case is one which has come before a Division Bench as a Court of Criminal Appeal, Reference, or Revision, the Court referring the case shall state the point or points on which they differ from the decision of the former Division Bench, and shall refer the case to the Full Bench for orders.

6.

Every decision of the Full Bench shall be treated as binding on all Division Benches and Judges sitting single upon the point of law or usage having the force of law determined by the Full Bench, unless it is subsequently reversed by a specially constituted Bench consisting of such number of Judges in each case shall be fixed by the Chief Justice or unless a contrary rule is laid down by the Supreme Court. Note - The Judgement in all cases heard by a Full Bench is to be circulated for information to all the Judges of the Court who did not take part in the decision. Chapter-V Powers of the Registrar, Deputy Registrar and other Officers of the Court

1.

In addition to the powers conferred upon him by other rules, the Registrar shall have the following duties and powers -(i) To receive an appeal under Article 4 of the Orissa High Court Order, 1948 read with Clause 10 of the Letters Patent constituting the High Court of Judicature at Patna; (ii) To receive an application for probate or letters of administration or for revocation of the same and to issue notices thereon; (iii) To receive a plaint or an appeal from the decree or order of a Subordinate Civil Court, or an application under Section 115 of the Code of Civil Procedure or under Section 25 of the Provincial Small Cause Courts Act; (iv) To dispose of all matters relating to (a) Court-fees; and (b) service of notices or other processes; (v) To receive and dispose of an application under Order XXII, Rules 2, 3, 4 to 10 and to amend the record, if necessary, except in cases under appeal to the Supreme Court; (vi) To appoint or discharge a next friend or guardian ad litem of a minor or person of unsound mind, except in cases under appeal to the Supreme Court, and to amend the record accordingly; (vii) To receive and dispose of an application under Chapter VI, Rules 2 to 7 and to amend the record, if necessary; (viii) To receive and dispose of an application for the withdrawal of an appeal or a consent decree or order; (ix) To receive and dispose of an application under Order XLI, Rules 5, 6, 8 and 10 : Provided that an application for an interim order in any appeal which has not been admitted shall be placed for orders of the Court; (x) To receive an application under Order XLV, Rule 2 or 15 and to issue notice therein; (xi) To receive an application for substitution of names in an appeal to the Supreme Court and to issue notice thereon; (xii) To require any memorandum of appeal, petition, application or other proceeding presented to the Court or to the Registrar to be amended in accordance with the procedure or practice of the Court; (xiii) to call for records from Subordinate Courts; (xiv) To dispose of requisitions by Subordinate Courts for records and documents; (xv) To receive and dispose of an application for the return of a document; (xvi) To require any person or party to file an affidavit with respect to any application or matter in respect of which he has power to exercise any discretion or to make any order; (xvii) To stop at his discretion the issue of all or any papers to any person who has failed to pay any fee or charges due to the Court; (xviii) To give leave to search the records of the Court under the rules in that behalf; (xix) To

dispose of all applications for copies of records whether presented by parties or by persons who are not parties to the proceedings to which such records relate;(xx)To decide the question of the necessity for transcribing and printing any accounts not specifically applied for by the parties to an appeal to the Supreme Court;(xxi)To call for a further deposit when the deposit already made by the Appellant in an appeal to the Supreme Court is not sufficient to defray the costs of preparing the record;(xii)To order payment of the interest accruing on Government promissory notes deposited under Order XLV, Rule 7 and to order the refund of any unexpended balance under Order XLV, Rule 12;(xxiii)To direct in what newspapers the publication referred to in Order XLV, Rule 9-A of the Code of Civil Procedure shall be made;(xxiv)To receive plaints, written statements, applications and affidavits in suits, proceedings and executions, hear and dispose of matters relating to issue and service of summons, amendment of pleadings, discovery, production and impounding of documents, settlement of issues, fixing dates of hearing and attendance of witnesses in suits and proceedings under the Banking Companies Act as amended by Act XX of 1950 and, in general, to deal with all matters up to the stage of making any such case ready for final disposal by the Bench; to hear and dispose of all applications for execution of decrees or orders in such cases or proceedings; provided that every contested matter in such cases and proceedings will be placed for final hearing disposal before the Bench;(xxv)To receive an application under Order XLIV, Rule 1 of the Code of Civil Procedure to appeal in forma pauperis;Provided that the Registrar may refer any matter under this rule to the Court for orders :Provided further that whenever compliance of any order passed by the Registrar is not made or defect not removed within the time allowed by him or within the time limited therefor in the rules hereinafter contained, the appeal or application shall without being listed in that matter before the Registrar be placed before the Bench for dismissal of the appeal or application, as the case may be. This proviso shall not apply to matters which the Registrar is empowered to finally dispose of without reference to the Bench under the rules.

2.

Subject to such orders as may be passed by the Chief Justice the Registrar may delegate any of his functions under these rules except those which are of a judicial or quasi-judicial character to the Deputy Registrar or to any other officer of the Court.

3.

Appeals and applications entertainable by the Registrar shall be presented to him and not to a Bench.

4.

In the absence of the Registrar or whenever the Chief Justice so directs, his powers and duties under [Rule 1(i) to (xiii)] [Substituted vide C.S. No. 18 (X-7/85, dated 26.11.1985).] of this Chapter shall be performed by a Judge or Judges and his power and duties under [Rule 1 (xiv) to (xxv)] [Substituted vide C.S. No. 18 (X-7/85, dated 26.11.1985).] shall be performed by the deputy Registrar or any officer of the Court.

5.

In the absence of the Deputy Registrar his powers and duties or any of them may, if the Registrar so directs be performed by any other officer of the Court. Part - II Procedure and practice Chapter-VI General Rules regarding Applications and Affidavits

1.

Every application to the High Court shall be a petition written in the English language.

2.

Every petition shall state concisely and clearly : (i) the facts, matters and circumstances upon which the applicant relies; (ii) the matter of complaint, if any, and the relief sought. (iii) [If any other application for similar or identical relief basing on the same subject matter being filed by the applicant, his or her authorised agent or any other person involved with him/her in the matter is pending in or disposed of by the Court.] [Inserted vide C.S. No. 77 (O.G.No. 22 dated, 1.6.07).]

3.

(i) The facts stated in every petition shall be verified either by affirmation or on oath of the petitioner or by a separate affidavit annexed to the petition; the solemn affirmation or oath being made in every case before a Commissioner for affidavits or other officer appointed for the purpose. (ii) Affidavits may also be filed in support of facts brought to the notice of the Court otherwise than by petitioner referred to in Sub-rule (i). The solemn affirmation or oath required for such affidavits shall also be made before the Commissioner for affidavits or other officer appointed for the purpose. (iii) The facts stated in a petition of appeal presented under Section 382 or Section 383 of the Code of Criminal Procedure need not to be supported by affirmation or on oath of the petitioner or by a separate affidavit annexed to the petition. (iv) [Affidavits shall be filed in the following format : [Added vide C. S. No. 68 (X-4/97, dated 29.10.1998)(O.G.No. 48 dated, 27.11.98).] Form of Affidavit In The High Court of Orissa, Cuttack In the matter of : (1) Name, address, occupation, age of the Deponent/Declarant petitioner/ Advocate. (2) Father's Name : (3) Number of proceeding (s) pending in the High Court or would be instituted (Caveat) : (4) Statement of facts : (5) If the facts stated are true to the best of the knowledge and belief of the Deponent/Declarant/Petitioner/Advocate or otherwise (Declaration in the following pro forma) "I.....the Appellant/Respondent/Petitioner/Opposite party/Deponent above named do hereby solemnly affirm that the facts stated in paragraph and are true to my own knowledge and in paragraphand are true to the best of my information which I obtained from the following sources.....I believe the information to be true for the following reasons Solemnly declare at the above said this.....day of.....20 Signature Before Me Commissioner of Oath Solemnly affirmed before me by who is identified before me by whom I personally know. This the.....day of 20....]

4.

Every petition and every affidavit shall be entitled "In High Court of Orissa" and shall be : (i) neatly typed on foolscap water-marked plain demi-paper (i.e. the 'pie' paper sold by all stamp vendors) with a margin of five centimetres and contain approximately twenty-four lines in each full page and only one side of the paper shall be used; (ii) couched in proper language; and (iii) signed and dated either by the petitioner or declarant or his advocate. Provided that in case where the petition is filed from the judgment or order of a Subordinate Court as in the case of Civil Revision, Criminal Revision and Civil Review and where the facts are borne out by the records of the Court, an affidavit signed and dated by the Advocate's clerk may be accepted and the parties affidavit dispensed with. (iv) Presented either by the petitioner or declarant or his recognised agent or his Advocate or some person appointed in writing in each case by such Advocate to present the same.

5.

Where a petition is expected to be lodged or has been lodged, which does not relate to any pending appeal of which the record has been registered in the Registry of the Court, any person claiming a right to appear before the Court on the hearing of such petition may lodge a caveat in the matter thereof, and shall thereupon be entitled to receive from the Registrar notice of the lodging of the petition if at the time of the lodging of the caveat such petition has not yet been lodged and, if and when the petition has been lodged, to require the petitioner to serve him with copy of the petition and to furnish him, at his own expense, with copies of any papers lodged by the petitioner in support of his petition. The caveator shall forthwith, after lodging his caveat, give notice thereof to the petitioner if the petition has been lodged. Note - This rule shall apply, as far as possible, to vakalatnams, process fee sheets and other similar papers.

6.

When a Vakalatnama is given by a party, who can sign his or her name, it must be signed by the party, when the party cannot sign his or her name, the Vakalatnama must be endorsed as follows : I.....A, B, do hereby appoint C, D, advocate to act for me in the above-named clause in token whereof I have affixed my left thumb impression in the presence of E, F. Left thumb impression and I.....E, F, do hereby attest the above thumb impression as having been affixed in my presence by A, B, who is known to me. Signature

7.

Every petition to be presented and every affidavit to be used in support of or in opposition to an application relating to any cause, appeal or proceeding shall be entitled in such cause, appeal or proceeding. If there is no such cause, appeal or proceeding in the Court, the petition or affidavit shall be entitled "In the High Court of Orissa, in the matter of a petition of

8.

Every petition shall, immediately after the cause title, state the section and statute under which it is made.

9.

Every petition or affidavit containing any statement of facts shall be divided into paragraphs; every paragraph shall be numbered consecutively and, as nearly as may be, shall be confined to a distinct portion of the subject.

10.

Every petition or affidavit shall set forth the petitioner's or declarant's full name if he is the plaintiff or defendant in a suit or the appellant or respondent in an appeal or petitioner or opposite-party in any case in which the application is made; it shall also set forth the name of such petitioner's or declarant's father, his age, his profession, calling, occupation or trade and his true place of residence.

11.

Every person referred to in a petition or affidavit shall be described therein in such manner as will serve to identify him clearly, that is to say, by the statement of his correct name and address and such further description as may be necessary for his identification.

12.

Every place referred to in a petition or affidavit shall be correctly described.

13.

Every petition shall, when presented by an Advocate, bear his signature as Advocate.

14.

When the petitioner in any petition or the declarant in any affidavit speaks to any fact within his knowledge he must do so directly and positively using the words "I affirm (or make oath) and say".

15.

When in an affidavit on an interlocutory application the declarant makes a statement of his belief he shall, if the facts are ascertained -(i)from another person, give such details of such person as are required by Rule 11;(ii)from a document or copy of a document, state the source from which it was

procured and shall state his belief as to the truth of such fact.

16.

Every Commissioner before whom a petition is verified or an affidavit is made shall, at the end of the petition or affidavit, certify the verification of the petition or making of the affidavit in the prescribed form. He should also sign each page of the petition or the affidavit.

17.

Every document referred to in an affidavit shall be marked as an exhibit and shall bear the certificate of the Commissioner before whom the affidavit was made in the prescribed form.

18.

Except under the special orders of the Registrar no document, being an exhibit to an affidavit or verified petition, or the materials for any application, shall be given back unless the document is an original document, in which case it may be taken back on an order of the Registrar, a certified copy being retained.

19.

Every person verifying a petition or making an affidavit, if not personally known to the Commissioner before whom the petition is verified or the affidavit is made, shall be identified to such Commissioner by some one known to him; and the Commissioner shall state at the foot of the petition or affidavit, as the case may be, the name, address and description of the person by whom the identification was made as well as the time and place of the identification and of making of the affidavit.

20.

Every paradanashin woman verifying a petition or making an affidavit shall be identified in the manner specified in the proceeding rule and every such petition or affidavit shall be accompanied by the affidavit of identification of such woman made at the time by the person who identified her.

21.

The Commissioner before whom any verification of a petition or any affidavit is about to be made shall, before the same is made, ask the person proposing to make such clarification or affidavit if he has read the petition or affidavit and understands its contents, and if the person proposing to make such verification states that he has not read the petition or affidavit or appears not to understand its contents, the Commissioner shall, before allowing the verification or affidavit to be made, cause it to be read and explained to the declarant in a language which he understands.

22.

Every interlineation, alteration or erasure in a petition or affidavit shall be authenticated by the initials of the Commissioner before whom the petition was verified or the affidavit was made, and shall be so made as not to render it impossible or difficult to read either the interlineation, alteration or erasure or the original word or figure which may have been altered or erased.

23.

[In administering oaths and affirmation to declarants, the Commissioner shall be guided by the provisions of the Oaths Act (Act No. 44 of 1969) and the following forms shall be used. Form No. 4 (Affidavit) Oath I, do swear in the name of God that this is my name and signature (or mark) and that the contents of this my affidavit are true. Affirmation I do solemnly affirm that this is my name and signature (or mark) and that the contents of this my affidavit are true.] [Substituted vide C.S.No. 53 (X-11/87, dated 8.2.1989).]

24.

No affidavit shall be read at the hearing of any appeal, application or other proceeding unless a copy thereof has been served upon the other party or his Advocate at least seven days before the hearing, or if the affidavit is only in answer to the opponent's affidavit at least twenty-four hours before the hearing : Provided that this rule shall not apply to urgent motions or applications or to motions or applications made ex parte or where ex parte proceedings have been order by the Court.

25.

The Registrar or any other officer so authorised by him may permit clerical errors in any memorandum of appeal, application or affidavit which has been filed in the Court to be corrected in his presence by the appellant, applicant or declarant or by his Advocate : Provided that the Registrar or any other officer so authorised by him shall initial and date every such correction.

26.

No petition or affidavit shall be read or used in the High Court which does not comply with the provisions of this Chapter.

27. [[Inserted vide C.S.No. 2 (X-2/84 dated 27.2.1984).]

(a) A party seeking an interim relief like stay, injunction, appointment of receiver, appointment of guardian, modification of order, analogous hearing vacation of order of stay, injunction, appointment of receiver and discharge of guardian and for any other interim relief in civil cases and for release on bail, stay or any other interim relief in Criminal cases is required to file separate petition for the same. (b) All miscellaneous applications and petitions filed in the following cases,

shall be registered as miscellaneous cases :Civil Cases

- 1. First Appeal**
- 2. Second Appeal**
- 3. Miscellaneous Appeal**
- 4. Civil Revision**
- 5. Civil Review**
- 6. Civil Reference**
- 7. Original Jurisdiction Cases**
- 8. Special Jurisdiction Cases -**
- 9. Supreme Court Appeals**
- 10. Tax Appeals**
- 11. Company Act cases**
- 12. Election Petition**
- 13. Admiralty Suit**
- 14. Original Suit**
- 15. Execution Cases**
- 16. Appeal against High Court Orders**

Criminal Cases

- 1. Criminal Appeals**

2. Government Appeals

3. Criminal Revision

4. Death Reference

5. Criminal Reference

6. Matrimonial Reference

7. Original Criminal Miscellaneous (Contempt)

The above rule shall come into force with effect from the 1st day of March, 1984.]Chapter-VII
Appointment of guardians and substitution of Legal Representatives

1.

The provisions of Chapter VI shall apply, so far as may be, to applications for the appointment of guardians and for the bringing on the record of legal representatives of deceased parties.

2.

When a guardian ad litem of a minor respondent is appointed and it appears that the guardian is not in possession of any or sufficient funds for the conduct of the appeal on behalf of the respondent and that the respondent will be prejudiced in his defence thereby, the appellant may from time to time be ordered to advance money to the guardian for the purpose of his defence and all money so advanced shall from part of the costs of the appellant in the appeal. The order shall direct that the guardian shall, as and when directed, file in Court an account of money so received by him.

3.

A party to a decree or order desiring to appeal therefrom and to make the legal representative of a party who has died after the date of such decree or order a respondent may, if such legal representative has not been made a party to any subsequent proceedings under such decree or order, enter his name as a respondent in the memorandum of appeal if he presents therewith an application for leave to make such legal representative a respondent to the appeal and also an affidavit stating such facts as may be necessary in support of his application.

4.

A party to a decree or order desiring to appeal therefrom and to make the legal representative of a party who died before the decree or order was made a respondent may, if such legal representative

has not been made to any subsequent proceedings under such decree or order, enter his name as a respondent in the memorandum of appeal if he presents therewith an affidavit showing that he did not know before the decree or order was made that such party had died or that he had no reasonable opportunity of informing the Court before such decree or order was made that such party was dead and stating such other facts as may be necessary in support to his application.

5.

Whenever by a decree or order which is appealable to the High Court the interest of -(a)a beneficiary in property which at the date of such decree or order was vested in or was in the possession of a trustee, executor, administrator or a receiver or manager appointed by a Court, who as such was a party to such decree or order; or(b)a legal representative as such of a deceased party to such decree or order; or(c)an assignee of a party to such decree or order by assignment subsequent to the date thereof; or(d)a person whose interest arose after the date of such decree or order by reason of any creation or devolution of interest by, through, or from any party to such decree or order;is affected, and such beneficiary, legal representative, assignee or person was not or has not been made a party to such decree or order to proceedings thereunder or thereon and desires to appeal therefrom he may name himself in the memorandum of appeal as an appellant if along with such memorandum of appeal he presents an application for leave to make himself an appellant and an affidavit stating such facts as may be necessary in support of his application.

6.

Whenever after a memorandum of appeal has been presented to the Court any appellant or party interested in the maintenance of an abjection under Order XLI, Rule 22 or 26 of the Code of Civil Procedure ascertains that any party named in the memorandum of appeal had died before the appeal was presented he may apply for an order that the memorandum of appeal be amended by substituting for the person who is dead his legal representative if along with his application he filed an affidavit showing that the application is made with all reasonable diligence after the fact of the death such person first came to his knowledge or to the knowledge of his agent, if any, acting on his behalf in the litigation.

7.

The Registrar may allow a reasonable time for the presentation of the affidavit required by Rules 3,4,5 and 6 if it appears to him that the applicant could not, by the exercise of due diligence, have procured such affidavit in time for presentation along with his application.

8.

Rules, 2 to 7 shall, as far as may be, apply to appeals under Article 4 of the Orissa High Court Order, 1948, read with Clause 10 of the Letters Patent constituting the High Court of Judicature at Patna, to applications for review or revision and to application under Article 228 of the Constitution and the

cases transferred thereunder. Chapter-VIII Procedure before admission

1.

The rules of Chapter VI shall apply, so far as may be, to every memorandum of appeal, to every memorandum of objection under Order XLI Rule 22 or 26 of the Code of Civil Procedure and to every application for revision or review.

2.

(1) Subject to Article 12 of the Orissa High Court Order, 1948 every appeal to the High Court under Article 4 thereof read with Clause 10 of the Letters Patent constituting the High Court of Judicature at Patna from the Judgement (not being a Judgement passed in the exercise of appellate jurisdiction in respect of a decree or order made in the exercise of appellate jurisdiction by a Court subject to the Superintendence of the High Court and not being an order made in the exercise of revisional jurisdiction, and not being a sentence or order passed or made in the exercise of criminal jurisdiction) of one Judge of the High Court or one Judge of any Division Court pursuant to Article 225 of the Constitution, shall be presented to the Registrar within thirty days from the date of the Judgement appealed from unless a Bench in its discretion, on good cause shown, shall grant further time. The Registrar shall endorse on the memorandum the date of presentation and after satisfying himself that the appeal is in order and is within time shall cause it to be laid before a Bench for orders at an early date. It shall be accompanied by a certified copy of the Judgement appealed from together with a neatly typed second copy thereof. (2) Subject to Article 12 of the Orissa High Court Order, 1948 every application for a Certificate under Article 4 thereof read with Clause 10 of the Letters Patent constituting the High Court of Judicature at Patna in the case of a Judgement of a Single Judge of the Court deciding a second appeal shall be made orally to the Judge in question immediately after the Judgement is delivered. No subsequent application will be entertained unless upon a duly stamped special application supported by affidavit filed within thirty days and not more from the date of the Judgement the Judge is satisfied that circumstance existed rendering an immediate application impossible. (3) If the Judge certifies that the case is a fit one for appeal a duly stamped memorandum of appeal may be presented to the Registrar within a period not exceeding sixty days from the date of the Judgement unless the Judge in his discretion on good cause shown shall grant further time for its presentation. (4) The memorandum of appeal need not be accompanied by a copy of the Judgement of decree appealed from.

3.

Every memorandum of appeal and every application for review or revision shall immediately below the title have endorsed on it "First Appeal", "Second Appeal", "Review" or "Revision", as the case may be and shall state - (a) the name and address of each appellant or applicant; (b) the name and address of each person whom it is proposed to make a respondent of opposite-party; Note - Address in (a) and (b) includes name of thana and name of Munsif. (c) the Court in which and the name of the Judge or Munsif by whom the decree or order objected to was made; (d) The date when such decree or order was made; (e) the names of all the parties to such decree or order and whether such parties

were plaintiffs, defendants, or applicants in the Court of first instance;(f)the ground or grounds, numbered seriatim of objection to the decree, order or Judgement;(g)the relief sought by such appeal, review or revision,(h)the amount of the Court-fee paid, the value of the appeal and in the case of an application for revision, the value of the suit out of which the application arises :Provided that :(i)in every case in which an appeal of cross objection is preferred to this Court and the valuation for the purposes of Court-fee paid varies from that of the trial Court in the case of First Appeals or from that of either the trial Court or the lower Appellate Court in the case of Second Appeals, the Advocate shall at the time of filing the Appeal add below the valuation in the memorandum of appeal a short explanatory note setting forth the reasons for the variation giving, if necessary, references to the certified copies of the Judgement and the decree and mentioning the relevant pages thereof, which are filed with the memorandum of appeal.(ii)in case of Civil Revisions under Section 115 of the Code of Civil Procedure and under Section 25 of Provincial Small Cause Courts Act, the petitioner shall state whether any revision on the same facts against the same order or Judgement had been previously filed before the Court on behalf of all or any of the petitioners' and, if so, with what result,(iii)in the case of an appeal, whether the suit in which appeal is made has already been before the Court on appeal.

3A. [[Inserted vide C.S.No. 38 (X-13/86, dated 4.9.1986).]

In addition to the information required to be furnished as per the provisions of Rule 3, every memorandum of appeal shall contain the gist of the cases of respective parties as also the substance of the findings recorded by the Trial Court and the Lower Appellate Court.]

4.

When two or more case are tried together and decided by the same Judgement and two or more appeals are filed against such Judgement or when two or more appeals or revisions are filed by the same party against a Judgement or where two more appeals are filed against a common Judgement by the same or different appellants or petitioners, the Registrar may, in his discretion, if satisfied that the question for decision are analogous in each appeal or revision, dispense with the production of more than one copy of the Judgement :Provided that in the appeal or revision in which the filling of a certified copy of the Judgement is dispensed with the appellant or petitioner, as the case may be, shall file a neatly typed copy of the same, certified to be a true copy by the Advocate presenting the appeal or revision :Provided further that in the cases as aforesaid any of the parties concerned may file a memorandum for analogous hearing of the appeals or revisions, as the case may be, and the Registrar, if satisfied that the questions for decision are similar in each appeal or revision, may direct that the said appeals or revisions may be heard analogously by the Court.

5.

In the case of -(i)Appeals from Orders of the Lower Appellate Courts remanding cases for retrial, and(ii)Appeals from Orders of the Lower Courts made on remand by the High Court;there shall be added at the foot of every memorandum of appeal a note to the following effect :This appeal is from an order of the Lower Appellate Court, dated the.....remanding the case for retrial under

Section.....of the Code of Civil Procedure.OrThis appeal is from an Order of the Lower Appellate Court (or Court of first instance, as the case may be), made on remand by the High Court, dated the.....

6.

A memorandum of appeal or application for revision of an appellate decree or order shall be accompanied by copies of the judgements of both the Lower Courts and if filed by an Advocate shall bear a certificate under his hand that in his opinion each of the grounds taken in the appeal or application is a good ground for 'appeal or for revision.In appeals from original decrees the memorandum of appeal shall be accompanied by the requisite process-fee and the process forms, duly filled in, the date of appearance and the date of the notice being left blank.

7.

When an appeal or application is not accompanied by the necessary copies of judgements, the Registrar may allow time for production of the same. If copies are not produced within the time allowed the appeal or application shall be laid before the Court for orders.Note - The provisions of this rule shall apply mutatis mutandis to an appeal from original decree where the memorandum of appeal is not accompanied by the requisite process-fee and the process forms.

8.

Every memorandum of appeal the ground of which is that there is in fact on the record no evidence of evidence or admission to support the decree shall state sufficiently the material finding in support of which there is no evidence or admission on the record.

9.

Every memorandum of appeal from an appellate decree on the ground mentioned in the last preceding rule which is presented by an advocate shall bear a certificate under his hand that he has examined the record and that, in his opinion, such ground is well founded.

10.

Every application for review of a Judgement shall set forth plainly and concisely the grounds on which a review is sought, and shall contain a certificate by the advocate, similar to that prescribed for appeals from appellate decrees.

11.

Every application for review made upon the ground of the discovery of new and important matter or evidence within the meaning of Order XLVII, Rule 1 of the Code of Civil Procedure shall be

accompanied by an affidavit of the applicant or his Advocate stating in clear terms what such new and important matter or evidence is, the effect or purport thereof, and that the same after exercise of due diligence was not within the knowledge of the applicant or could not be produced by him at the time when the decree was passed, the order was made or the Judgement was delivered. The documents, if any, relied upon, shall be annexed to the application.

12.

Every memorandum of appeal, memorandum of objection under Order XLI, Rule 22 or 26 of the Code of Civil Procedure and every application for review or revision shall be presented either to the Court or to the Registrar, as the case may be, applications for review, in particular, must be presented by way of motion in open Court to the Bench of whose Judgement a review is sought or if the Judges of such Bench are not sitting together to the senior of such Judges who is then attached to the Court and present.

13.

If an application for review of a Judgement cannot be heard in the manner provided in Order XLVIII, Rule 5 of the Code of Civil Procedure such application shall be presented by the applicant or his Advocate to the Chief Justice who shall provide for the hearing of the application.

14.

Every memorandum of appeal, every memorandum of objection under Order XLI, Rule 22 or 26 of the Code of Civil Procedure and every application for review or revision shall, on presentation for admission and every reference received in the Court, be examined by the Stamp Reporter who shall certify thereon whether the memorandum, petition or reference is in due form, within time and when a stamp is required, as to the sufficiency or otherwise of the stamp, or in the case of a stamp of which the sufficiency cannot be ascertained that the report as to the sufficiency of stamp will be made on the receipt of the record, and whether the appeal, application or reference is or is not within the jurisdiction of a Judge sitting alone :[* * *] [Deleted vide C.S.No. 34 (X-3/86/dated 5.9.1986).]

14A. [[Inserted vide C.S.No. 35 (X-3/86/dated 5.9.1986).]

The stamp reporting shall be done as early as possible within 3 days from the date of filing and defects, if any, shall be notified by the Deputy Registrar on the next earliest Tuesday or Friday, as the case may be, along with the Supplementary Cause List and a copy thereof shall be sent to the Secretary, Bar Association for removal of defects.

14B.

[(1)] [Re-numbered vide C.S.No. 40 (X/3/86/22.10.1986)] In case of the defect/defects is/are not removed within 5 days from the date of publication of the defects the matter shall be placed before the [Deputy Registrar] [Substituted vide C.S.No. 40 (X/3/86/22.10.1986)], who may, if he thinks fit, grant reasonable time for removal of defects.(2)[The Deputy Registrar shall hold law zima Court for two days in a week usually, on Tuesday and Friday, for the purpose of removal of defects notified under Rule 14-A] [Added vide C.S.No. 40 (X/3/86/22.10.1986).]

14C.

If the defects is/are not removed within the time granted by the [Deputy Registrar] [Substituted vide C.S.No. 40 (X/3/86/22.10.1986).], the matter shall be placed before the Bench for dismissal and it shall be dismissal, unless application explaining the reason for non-removal of the defects/has been/is filed for extension of time.]

15.

Every memorandum of appeal under Section 44 (2) of the Orissa Hindu Religious Endowment Act shall be dealt with according to the procedure provided for appeals against orders.

16.

[(a)] [Renumbered vide C.S. No. 36 (X/86/5.9.1986).] The Stamp Reporter shall prepare copies of the stamp report in quadruplicate. One copy of the report will be given to the [Deputy Registrar] [Substituted vide C.S. No. 36 (X/86/5.9.1986).], another copy will be affixed to the Court's notice board, the third copy will be on record and the fourth copy will be with the Stamp Reporter.(b)[On receipt of the report of the Stamp Reporter the Deputy Registrar shall notify the defects, if any, pointed out by the Stamp Reporter, to the Bar Association on the next earliest Tuesday or Friday, as the case may be, alongwith the Supplementary Cause List.] [Added vide C.S. No. 36 (X/86/5.9.1986).]

17.

If a memorandum of appeal is not barred by limitation, is sufficiently stamped and complies with the provisions of these rules, the Registrar shall -(a)in the case of an appeal from an original decree, admit it and issue notice to the respondent;(b)in the case of an appeal under Article 4 of the Orissa High Court Order, 1948, read with Clause 10 of the Letters Patent constituting the High Court of Judicature at Patna, order it to be laid before the Bench to which such appeals are assigned;(c)in the case of any other appeal an application under Section 115 of the Code of Civil Procedure or under Section 25 of the Provincial Small Cause Courts Act, they shall be placed before the Bench for admission.

18.

If the memorandum of appeal, other than an appeal from original decree or an application is not in proper form and the appellant or applicant does not amend it within the time fixed by the Registrar, the Registrar shall lay it as soon as possible before a Bench for orders.

19.

Every memorandum or application for which the stamp cannot be ascertained until the receipt of the record, shall as soon as possible after the receipt of the record, be examined by the Stamp Reporter, who shall then endorse on it his report as to the sufficiency of the stamp and shall send it to the Registrar for orders.

20.

Whenever the Stamp Reporter finds that a document which ought to bear a stamp under the Court-fees Act, 1870 has been through mistake or inadvertence received, filed or used in the Court without being properly stamped, he shall report the fact to the Advocate who presented such document. Such Advocate shall at once initial the report and shall within three week thereafter or within such further time as the Taxing Officer may allow note on it whether he accepts or disputes the accuracy thereof. If such note is made within such time it shall not be open to such Advocate to dispute the accuracy of the report. Note - The Chief Justice has been pleased to declare that the Registrar of the High Court shall be the Taxing Officer within the meaning of Section 5 of the Court-fees Act, VII of 1870.

21.

No copy of a decree or Judgement presented or filed with a memorandum of appeal or with an application for revision or review which has been admitted shall be returned. Every such copy shall remain with the record of the appeal or case in revision to which it belongs.

22.

No affidavit accompanying an application for review shall be returned whether such application has been admitted or not.

23.

When on any application for revision or review the record is sent for, it shall, when received, be laid before the Judge or Judges who made the order, for a decision as to whether the application is to be admitted or rejected.

24.

Every application for stay of execution under Order XIX, Rule 5 of the Code of Civil Procedure shall specifically state that it is made under that rule, and it shall be accompanied by an affidavit stating specifically the fact upon which the application is based, the date of the decree or order the stay of the execution of which is desired, the date of the order, if any, for execution or sale, the date, if any, fixed for the sale, and the facts necessary to enable the Court to be satisfied of the matters mentioned in Order XLI, Rule 5, Sub-clause (3) of the Code of Civil Procedure.

25.

Wherever any ex parte interim order granting stay, injunction, etc. is passed in an appeal or case (not being a criminal case), it shall be taken as implied therein, unless otherwise specifically directed, that the communication to the lower Court regarding interim relief is to be made only simultaneously with the issue of the notice thereof to the opposite-party.

26.

If the requisites for issue of notice are not filed within a week of the date of the order, the application for stay shall be posted before the Court or the Registrar, as the case may be, for vacating the said interim order.

27.

When the requisites for notice with reference to any interim order are filed before 3 P.M. on any day, the order shall be communicated to the lower Court and the notice shall be issued on that very day. In order to ensure this, there shall be a clearance of the Talbanas filed by 3 P.M. on every day.

28.

In all cases of ex parte interim order, the matter shall be put up to the Court or the Registrar, as the case may be, for further orders according as occasion therefore arises from time to time but not later than a week from the date it becomes ripe of being so posted.

29.

Every application for security under Order XLI, Rule 6 or 10 of the Code of Civil Procedure shall state specifically under which rule it is made and shall be accompanied by an affidavit stating specifically the facts upon which the application is based.

30.

Every application for the re-admission or restoration of an appeal or application dismissed for default of appearance, shall be accompanied by an affidavit stating the circumstances under which such default was made and whether or not the party whose appeal or application was dismissed had, previously to such dismissal, engaged an Advocate to conduct the appeal or application. In case any Advocate was employed, the affidavit shall further state, on the personal knowledge of the deponent and not on information and belief only, the name of such Advocate, the date when he was so employed, the amount of the fee agreed to be paid to him and the date when such fee was fully paid to him.

31.

might be barred by time and which is entertainable only by a Bench may be presented to the Registrar, or in his absence from Court on that day, to the Deputy Registrar, or in their absence to any other On any Court day on which no Bench is or has been sitting, any memorandum of appeal or application which officer of the Court so authorised, who shall certify thereon that such memorandum of appeal or application was on that day presented to him :Provided always that no such presentation to the Registrar, Deputy Registrar or any other Officer so authorised shall be of any effect, unless such memorandum of appeal or application be presented to a Bench on the next subsequent day on which a Bench is sitting.

32.

If on any Court day the Registrar is absent, any memorandum of appeal or application which should, under these rules, be presented to him which might be barred by time, may be presented to the Deputy Registrar or in his absence to any other officer of the Court so authorised who shall certify thereon in writing under his hand that such memorandum of appeal or application was on that date presented to him :Provided always that no such presentation to the Deputy Registrar or any other officer of the Court shall be of any effect unless such memorandum or application be presented to the Registrar on the next subsequent day on which the Registrar is sitting for the hearing of applications.

33.

No application to the same effect or with the same object as a previous application upon which a Judge has passed any order other than an order of reference to another Judge or Judges shall except by way of appeal, be presented to any other Judge or Judges on behalf of any person on whose behalf such previous application was presented.

34.

Interim relief by way of stay or injunction, etc. shall not be ordinarily granted in any appeal or revision before the same is admitted. Exceptionally urgent matters may be put up before the Bench for orders when a memorandum signed by counsel for the party stating special circumstances is filed.

35. [[Inserted vide C. S. No. 4 (X-7/81, dated 25.3.1984).]

In all proceedings where the State of Orissa or the Union of India or Public Officers both of State Government or Central Government without the State or the Union of India being arrayed, are parties, and appearance is/has been entered by the Advocate-General, Government Advocate or the Standing Counsel/Counsel appointed on that behalf for the state of Orissa or the Union of India or for such officers as the case may be, such appearance shall be taken as appearance for the entire matter and no further notice from the Court should issue to the parties represented by such advocate or counsel.] Chapter - IX Procedure after admission

1.

Subject to any order which may be made by a Bench the date for hearing any suit, appeal or application, or any party or Advocate shall be fixed by the Registrar.

2.

Such date shall be fixed with reference to the current business of the Court, the place of residence of the defendant or the respondent or other person to be served with notice and the time necessary for service of notice of the suit, appeal or application so as to allow the defendant or the respondent or such other person sufficient time to appear and answer the suit, appeal or application.

3.

When an appeal is one which is to be heard under Order XLI, Rule 11 of the Code of Civil Procedure or which is an appeal under Article 4 of the Orissa High Court Order, 1948 read with Clause 10 of the Letter Patent constituting the High Court of Judicature at Patna as early a date as possible shall be fixed for hearing the appellant or his Advocate.

4.

When an appeal under the Orissa High Court Order, 1948 read with the Letters Patent constituting the High Court of Judicature at Patna has been admitted the Registrar shall prepare a notice of the appeal in the prescribed form for service on the respondent and shall cause the notice to be served on the Advocate or any one of the Advocates who appeared for the respondent in the appeal in which the Judgement was given. In any case in which the respondent did not enter appearance in

the appeal in which the Judgement was given, the notice shall be served in the mode provided by law for service of notice in an ordinary appeal.

5.

In all cases in which any process is sent to a subordinate Court it shall be in Oriya language provided that the Registrar may in any case direct that the process shall be in English.

6. [[Inserted vide by C. S. No. 67 (XII-7/93, dated 4.9.1993).]

(1)The Court shall, in addition to, and simultaneously with, the issue of summons for service in the manner provided in Rules 9 to 19 of Order 5 of the Civil Procedure Code, also direct the summons to be served by registered post, acknowledgement due, addressed to the defendant or his agent empowered to accept the service :Provided that in the event, the Court consider it unnecessary it may not issue the summons/notice by registered post by simultaneously.](2)The Court-fee stamp for the issue of notice as aforesaid shall be filed before the Deputy Registrar within ten days from the date of admission of the suit, appeal or application unless otherwise directed by the Court.(3)There shall be filed together with the Court-fee stamp or the registered cover, as the case may be, the requisite number of prescribed printed forms of appearance and the date of notice being left blank.(4)Information entered in the forms shall be filled up in bold, clear and easily legible handwriting.(5)Parties filing the forms will be held responsible for the accuracy of the information entered therein.(6)The date of appearance will be inserted in the forms and the notice will be dated and signed by the Deputy Registrar or any other officer so authorised.(7)The requisite number of printed forms of notice will be supplied to the parties or their Advocates free of cost on application to the forms clerk. Other forms will not be accepted unless they are in the prescribed form and the quality of the paper and of the printing is as good as that of the forms supplied by the office of the Court.

7.

If the Court-fee and the registered cover for issue of notice or the notice forms duly filled up are filed as provided in the last preceding rule the suit, appeal or applications shall be placed before the Bench, with office notes, for dismissal.

8.

No process fee for the issue of notice of any suit, appeal or application and no notice forms shall, except under the orders of the Registrar, be received after the expiry of the ten days allowed by Rule 6.

9.

If the process fee be paid and the notice form duly filled up be filed within ten days or within the extended time, if any, allowed by the Court, notice in the prescribed form shall at once issue on the defendant or the respondent or other person to be served with notice.

10.

When an appeal or an application for revision has been admitted a notice shall be at once issued to the Court from whose decision the appeal is preferred or the application is made calling upon it to transmit the record of the case and all material papers if they are not already in the Court within seven days :Provided that in every appeal from an interlocutory order made in a suit and coming under Order XLI 11, Rule 1, Clauses (q), (r) and (s) of the Code of Civil Procedure, copies only of the plaint written statement (if any), order-sheet and the papers directly relating to the interlocutory proceedings in appeal shall be called for unless the Court or the Registrar otherwise directs.

11.

When in an appeal or other proceeding the Court orders a notice to show cause to issue, such notice shall ordinarily be issued to all parties to such appeal or other proceeding and to any person whom it is proposed to make a party. If the person to whom the notice is to issue is a minor or a person of unsound mind or other disqualified person, it shall also be issued to the guardian or next friend of such person.

12.

In every case in which the Court orders a notice to issue under the last preceding rule the party at whose instance such order is made shall file along with the process fee as many typed copies of the application and affidavit as there are persons to be served.

13.

Every application for an order to a Subordinate Court to forward any record, document or paper shall state -(a)the Court in which such record, document or paper is;(b)the record or file in which such document or paper is;(c)the date of the record or document or paper;(d)the language in which the document or paper is;(e)the date when the document or paper was filed.

14.

Every such application shall be accompanied by a deposit of one rupee in Court-fee stamp and by a certificate signed by an Advocate that in his opinion such record, document or paper is requisite and material for supporting or opposing the suit, appeal or other proceeding.

15.

In every case in which an appeal or an application for revision or review has been admitted, the Registrar shall cause paper books to be prepared in accordance with the provisions of Chapter XII.

16.

On every Saturday or if any, Saturday be a holiday, on the last working day of the week the Registrar shall cause to be prepared and printed a complete list of the cases ready for hearing during the week classified under different headings, the cases made ready during the week being entered at the bottom of the appropriate headings. This list shall be called the [Weekly cause list of ready cases] [Substituted vide C. S. No. 7 (X-4/83, dated 25.3.1984).]. A copy of this list shall be pasted on the notice board outside the Lawzima Court.

17. [[Substituted vide C. S. No. 8 (X-4/83, dated 25.3.1984).]

(1)The Registrar shall, on the last working day of the week, cause to be prepared and pasted in the notice board of the Court a list of the cases to be taken up by each bench during the following week. This list shall be called the weekly cause list and a copy of it shall be sent to each Judge. Provided that if so directed by the Court the Registrar shall cause to be prepared and pasted on the notice board or the Court, a supplementary daily cause list of cases to be taken upon on the following day and a copy of it shall be sent to each judge.](2)Cases shall be taken on the [Weekly Cause List] [Substituted vide C. S. No. 7 (X-4/83, dated 25.3.1984).] from the [Weekly Cause List of ready cases] [Substituted vide C. S. No. 7 (X-4/83, dated 25.3.1984).] ordinarily according to priority of institution unless otherwise specifically directed by the Chief Justice.(3)The Registrar shall include in the [Weekly Cause List] [Substituted vide C. S. No. 7 (X-4/83, dated 25.3.1984).] a List of the cases which will be taken up by him on the following [week] [Substituted vide C. S. No. 7 (X-4/83, dated 25.3.1984).],(4)No notice need be given to any party appearing in person in any suit, appeal or application about the date or dates to which they are posted either for taking steps or for final hearing.

18.

Counsel shall exchange before the date of hearing all the authorities they propose to cite and the party defaulting shall be prohibited from citing authorities not so exchanged unless the Court make exceptions in appropriate cases.

19.

If on the date fixed for the hearing of any suit, appeal, application or other matter it appears that the requisite notices have been severed, the matter may be disposed of; if not disposed of, it shall come on for disposal in the ordinary course and no notice of any date fixed for hearing shall be given other than its inclusion in a [Weekly Cause List or Supplementary Cause List, as the case may be]

[Substituted vide C.S.No. 9 (X-4/83/25.3.1984).].

20.

A case which is part heard shall, unless otherwise ordered by a Bench, be placed first in the [Weekly Cause List] [Substituted vide C.S.No. 10 (X-4/83/25.3.1984).] for the day on which the Bench which has partly heard such case next sits for the disposal of that class of business.

21.

Subject to Rule 19, a case which is specially fixed for a particular day before a particular Bench shall be placed at the head of the list for that day [in the Weekly Cause List] [Added vide C.S.No. 10 (X-4/83/25.3.1984).],

22.

The cases [Weekly Cause List and Supplementary Daily Cause List] [Substituted vide C.S.No. 12 (X-4/83/25.3.1984).] shall, unless the Bench otherwise directs, be called on and disposed of in their order on the list.

23.

No cases in the [Weekly Cause List and Supplementary Daily Cause List] [Substituted vide C.S.No. 12 (X-4/83/25.3.1984).] shall be allowed to stand out of its place in the list or shall be adjourned on account of the absence of any Advocate unless such absence is, in the opinion of the Bench, unavoidable.

24.

(1) Except as by these rules provided, no request for an order that a case shall stand out of its place in a [Weekly Cause List and Supplementary Daily Cause List] [Substituted vide C.S.No. 12 (X-4/83/25.3.1984).] or be adjourned or that a case shall not be placed in a [Weekly Cause List and Supplementary Daily Cause List] [Substituted vide C.S.No. 12 (X-4/83/25.3.1984).] shall be entertained ; Provided that the Bench (when the case appears in the [Weekly Cause List and Supplementary Daily Cause List] [Substituted vide C.S.No. 12 (X-4/83/25.3.1984).] or the Registrar (in other case) may order such case to stand out of its place in such list or to be adjourned if such Bench or the Registrar is satisfied that by reason of legal process, recent death, sudden illness or domestic bereavement or by reason of an Advocate who is alone for a party in the case being engaged elsewhere the party cannot be properly represented at the hearing unless such order is made, or for any other sufficient cause and in its discretion: Provided further that in the case of 'part heard', 'specially fixed' and three cases next below them in the list, the prayer for such adjournment shall be by an application in writing duly stamped. (2) Any person desiring that a case may not be in its turn placed in the [Weekly Cause List and Supplementary Daily Cause List] [Substituted vide

C.S.No. 12 (X-4/83/25.3.1984).] in accordance with Rule 17 (2) for any particular day or days may apply to the Registrar in a duly stamped petition. The Registrar may, if satisfied that there are exceptional reasons, order that such case shall not be placed in the [Weekly Cause List and Supplementary Daily Cause List] [Substituted vide C.S.No. 12 (X-4/83/25.3.1984).] for any such day or days.(3)The Registrar alone in the office shall be competent to adjourn ready cases.

25.

(1)The following cases shall have precedence over others in preparation for hearing, namely : (a)cases in which an order of expedition has been passed by the Bench;(b)all cases, appeals, applications and motions which after admission and passing of interim order hold up proceedings before Lower Courts;(c)application for transfer;(d)matters relating to Court-fee;(e)cases under Section 11 and 13 of the Orissa Money-Lenders Act;(f)cases under the following provisions of the Code of Civil Procedure-(i)application under Section 10;(ii)amendment of pleadings including applications for adding or striking out parties Under Order 1, Rule 10;(iii)applications for separate trial under Order II, Rule 6;(iv)applications for discovery and inspection under Order XI;(v)cases under Order XXI, Rule 9;(vi)question of abatement, compromise and adjustment under Order XXII or under Order XXIII;(vii)applications against order issuing or refusing to issue commission under Order XXVI;(viii)applications relating to arrest under Order XXXVIII;(ix)matters relating to injunction;(x)cases under Order XLI, Rule 19;(xi)cases relating to amendment of decrees in the High Court;(xii)cases relating to restoration of appeals dismissed for non-prosecution in the High Court;(xiii)appeals from orders of the Lower Appellate Court remanding cases for retrial; and(xiv)appeals from order of Subordinate Courts made on remand by the High Court.(2)Cases enlisted in Sub-rule (1) shall be separately classified and shown in the [Weekly Cause List of Ready Cases] [Substituted vide C.S.No. 13 (X-4/83/25.3.1984).] under the head "Expedition Cases" and shall be taken first in their order to the [Weekly Cause List and the Supplementary Daily Cause List] [Substituted vide C.S.No. 13 (X-4/83/25.3.1984).] in preference to the other cases on the [Weekly Cause List of Ready Cases] [Substituted vide C.S.No. 13 (X-4/83/25.3.1984).], Such cases shall appear in the [Weekly Cause List and the Supplementary Daily Cause List] [Substituted vide C.S.No. 13 (X-4/83/25.3.1984).] within four months of their institution unless the Bench on the recommendation of the Registrar on the ground of extraordinary circumstances extends the time.

26.

When an order has been made under Order XLI, Rule 23 or 25 of the Code of Civil Procedure the Deputy Registrar shall make a note of the same in a register to be kept for the purpose and he shall bring to the notice of the Registrar any case in which a subordinate Court has not made a return to the order of remand within four months or within such time as may have been specifically ordered.

27.

The form of the oath or affirmation to be administered in the Court in civil cases shall be the same as that provided for criminal cases in Chapter XIV, Part A.

28.

Where application is made to the Court for leave to enter into any agreement or compromise on behalf of a minor or other person under disability, the next friend or the guardian ad litem of such minor or other person under disability shall file in Court with the application a certificate in the form of an affidavit to the effect that in his opinion and for reasons set forth therein the agreement or compromise is for the benefit of the minor or other person under disability. Counsel or advocate, if any, appearing on behalf of the minor or other person under disability shall also file with the application a statement certifying to the above effect. Chapter-X Notice of proceeding to Advocate-General

1.

The Court may direct notice of any proceeding to be given to the Advocate-General of the State who may appear and take such part in the proceedings as he may be advised.

2.

The Advocate-General of the State may apply to be heard in any proceeding before the Court and the Court may, if in its opinion, the justice of the case so requires, permit the Advocate-General so applying to appear and be heard subject to such terms as to costs or otherwise as the Court may think fit. Chapter - XI Notice in peremptory order cases and cases of non-prosecution

1.

In cases of orders passed either in Bench or by the Registrar directing that failing compliance of the directions therein the case or the application shall stand dismissed without any further reference, a notice shall invariably be posted on the day following the date of the order, if not on the day of the order itself, stating the compliance required, the date of such compliance and that failing such compliance the case or application shall stand dismissed without any further reference.

2.

A notice shall invariably be posted whenever there is any prayer for getting any case or application dismissed for non-prosecution and it shall remain posted for seven days before the prayer is taken up for disposal. Chapter-XII Preparation of paper-books(A)General

1.

Paper-books shall when printed be in accordance with the following directions : (a) The size shall be 32 by 64 cms. of foolscap folio. (b) The type used in the text shall be pica modern, solid, with italics where necessary but long primer shall be used in printing accounts, tabular matter and notes. (c) Every tenth line on each page shall be numbered, the tenth line shall be numbered 10, the

20th line 20 and so on :Provided that ordinarily paper-books shall be typed or cyclostyled as provided hereinafter.

2.

To every paper-book shall be prefixed a table of contents with reference to pages. The documents put in by both parties shall in the table of contents be shown in the order of the exhibit marks.

3.

Every paper-book shall have attached to it a fly leaf in the prescribed form.

4.

In every case in which an appeal or an application for revision or review has been admitted, the Registrar shall, at once, on receipt of the record and of the prescribed cost if any due from the appellant or the petitioner, cause a paper-book to be prepared in accordance with the rules of this chapter :Provided that upon good cause being shown the Registrar may in any case instead of causing the paper-book to be prepared in the office, direct the preparation in type at the cost of the appellant of so many copies as he may consider necessary. Exception 1 - In an appeal which is to be heard under Order XLI, Rule 11 of the Code of Civil Procedure no paper-book shall be prepared unless and until an order for service of notice on the respondent has been made. Exception 2 - In a miscellaneous case not provided for in the rules of this Chapter, it shall not be necessary to prepare a paper-book, but the Registrar may, if he thinks fit, direct that a paper-book be prepared and may also direct what papers it shall contain. (B) Appeals from Original Decrees

5.

Every party who filed an appeal in person shall insert in his petition of appeal or otherwise given in writing to the Deputy Registrar, an address, within Cuttack at which notices and other processes in the appeal may be served upon him; and any notice or other process left for him at that address or sent thereto by registered letter shall be presumed to have been duly served upon him.

6.

Upon receipt, of the record, and in no case later than seven days, the Deputy Registrar shall serve a notice on the appellant and the respondent to prepare and deliver a list of the exhibits to be inserted in the paper-book. The list shall be in the following form and shall show the documents in chronological order, but in all cases documents relating to the same series or to the same subject (e.g., series of correspondence or proceedings in a suit other than the one under appeal) shall be kept together. The correct and full description of each document must be given when document such as rent receipts, account books, chalans, etc. are to be included in the paper-book. Form In the High Court of Orissa, Cuttack.....No.....of 20.....Appellant Versus Respondent List of

documents filed by appellant/respondent for inclusion in the Paper-Book.

Serial No.	Description of document	Ext. mark in the trial Court	Date of document	Whether the document was admitted into evidence with or without objection or dispensing with formal proof	Gist as to how the document is relevant for disposal of the appeal	Remarks
1	2	3	4	5	6	7

7.

The appellant and the respondent shall, within thirty days after service of notice required by Rule 6, deliver to the Deputy Registrar the list prepared in accordance therewith :Provided that the appellant shall serve a copy of the list on the respondent immediately after his appearance and the respondent shall serve a copy of the list on the appellant before its delivery to the Deputy Registrar.

8.

The appellant shall along with the list as required under Rule 7 supply the requisite number of copies of typed/cyclostyled paper-books containing the following documents duly certified to be true copies by his Advocate (s) :(a)Plaint;(b)Written statement or written statements;(c)Issues;(d)Judgement or order against which the appeal is preferred;(e)Decree;(f)Memorandum of appeal;(g)Depositions;

9.

Within a week after expiry of the period of thirty days provided in Rule 7, the case shall be listed before the Bench for determination as to which of the documents shall be included in the paper-book. Upon hearing the appellant and the respondent the Court shall decide the particular exhibits to be included in the paper-book which shall be called Part II.

10.

It shall ordinarily be unnecessary to include in the paper-book any of the following papers, viz. :(a)Schedules;(b)Maps and plans in all cases other than chur, partition and boundary cases;(c)Accounts, jama-wasil-baki and similar papers except particular entries relevant for the decision of the appeal;(d)Leases, pattas and Kabuliyats;(e)Receipts and chalans;(f)Record of rights;(g)Bulky documents;(h)Registers;(i)Specimen signatures and finger prints; and(j)Photographs.

11.

Exhibits not included and printed in the paper book in accordance with Rules 7 and 9 shall not be referred to at the hearing of the appeal and the appellant and the respondent shall be precluded from relying upon the same without the special leave of the Court obtained on making a petition therefor. This rule shall not preclude the Court from referring to any paper to which it considers a reference necessary for the ends of justice.

12.

In case the appellant expresses a desire to include the depositions in Part II of the paper-book as per the list filed by him they shall be included in the paper-book to be prepared by the office at the cost of the appellant.

13.

At the time of determination of inclusion of exhibits in accordance with Rule 9 the Court shall give necessary direction for apportionment of costs between the appellant or appellants and the respondent or respondents in the preparation of the paper-book taking into consideration the exhibits included on behalf of either party.

14.

(1) The paper-book shall be prepared in the office unless by orders of the Bench any of the parties are permitted to prepare the same. The Deputy Registrar shall within seven days after determination by the Bench as to which of the exhibits shall be included in the paper-book in accordance with Rule 9 deliver to the appellant and to the respondent separate estimates of the costs of preparing their portions of the paper-book. (2) The cost of printing of depositions shall be included in the estimate delivered to the appellant; (3) Estimate shall be prepared at the following rates :

	Cost Rs. P.
Counting fee per 10,000 words	2.00
Copying fee	The rates specified in Chapter XIX, Rule 5.
Printing for 20 copies	Ordinary matter per page 6.00
Tabular work more than one-tenth of the whole of any paperbook per page.	8.00
Index charges for each	0.50
Registration fee and postage	According to existing postal rates.
Checking fee per page	0.20

(4) In preparing the index of the exhibits or documentary evidence care should be taken to give a correct and full description of each document. The description furnished in the lists prepared by the Subordinate Courts or filed by the Advocates in this Court should not be relied upon but the documents themselves should be consulted in order that a full and accurate description may be given to the index. (5) A quarter page shall be taken as the unit of measurement for charges when printing does not cover the whole page, that is to say, the charges will be one-fourth of the rate for a page for printing occupying one-fourth of the page or less, half of the rate for a page for printing exceeding one-fourth and not exceeding half of a page; three-fourth of the rate for a page for printing exceeding half and not exceeding three-fourth of a page, the full rate for a page for printing exceeding three-fourth of a page. (6) For rates of printing maps and plans see Rule 8 of Part III, Chapter XVII.

15.

The appellants and the respondents shall within twenty-one days after the delivery to them respectively of the estimates prepared in accordance with the last preceding rule, deposit in the office by chalan the amount of the respective estimates. [Provided that the High Court office shall prepare paper-book in First Appeals at the first instance either for the appellant or respondent, as the case may be, where the Advocate has been engaged on behalf of the Legal Aid and Advice Board, Cuttack and submit the bills to the Member-Secretary, Legal Aid and Advice Board for its payment.] [Added vide C. S. No. 60 (X-3/90 dated 9.11.1991).]

16.

If the parties fail to make the deposit as required by Rule 15, the matter shall be laid with office note before the Bench for consideration which may, unless satisfied that there was reasonable ground for default, in the case of default by the appellant direct the appeal to be dismissed for want of prosecution and in the case of default by the respondent direct that the paper-book be prepared excluding the exhibits of the respondent, or may pass such other orders as may be deemed proper under the circumstances of the case.

17.

The paper-book shall include the whole of the papers determined to be included therein. All papers shall be printed and arranged in the order prescribed by Rule 13 of Chapter XIX, Part III. Note - Maps forming part of a paper-book shall be included in the table of contents, but shall not be bound up with other papers in the paper-book. Such maps may be drawn or printed on durable paper and they shall form a separate packet with a separate list.

18.

There shall ordinarily be prepared ten copies of the paper-book, but Registrar may, when necessary, direct a larger number to be prepared. The appellant and the respondent shall be entitled to have, free

of charge, as many copies as they have Advocates engaged in the appeal in any case they shall each be entitled to three copies.

19.

An entry of a case in the Weekly Cause List shall be notice to all concerned that the paper-book is ready and copies may be obtained. The issue of a paper-book to the Advocate of a party shall be notice to the party that the case is ready for hearing.

20.

In appeals in which the respondent has not appointed an Advocate up to the date of preparation of the paper-book, an appendix containing the deposition of the serving officer and the return and the remarks of the Subordinate Court as to the service shall be added to the paper-book in transcript unless it is in a vernacular other than Oriya in which case it shall be in translation.

21.

(1) There shall be printed at the end of every paper-book in the following form a statement in which shall be specified each item of the costs incurred in its preparation by the appellant and the respondent respectively:

Estimating, Copying, etc. (as in Rule 14)	By the Appellant	By the Respondent			
No. of pages	Rate of charge	Amount	No. of pages	Rate of charge	Amount

(2) Any surplus remaining after deducting the costs actually incurred by each party from the amount deposited therefor shall be refunded upon request to the party by whom deposit was made. (3) If there is a deficit the office shall by a written notice call upon the party to make good the deficit within five days of the receipt of the notice or within the time that may be extended by the Registrar and on his failure to make good the deficit in time the matter shall be placed before the Court for orders for non-prosecution.

22.

The cost incurred in the preparation of the paper-book not exceeding the amount calculated at the rates prescribed in Rule 14, shall be costs in the appeal unless as to the whole or any portion thereof the Court which hears the appeal shall disallow the cost of preparation of the paper-book in respect of the unnecessary documents included in the paper-book of the appeal as a penalty on the party responsible for inclusion of such document in his paper-book.

23.

An appeal against a grant, or refusal of grant or revocation of probate or letters of administration or refusal of revocation shall be governed by the rules of this Chapter.

24.

When the rules of this Chapter direct or allow an act to be done by or any notice to be given to an appellant or respondent such act may be done by or such notice given to the Advocate of such appellant or respondent.

25.

When a return has been made to an order of reference to the Court, a copy of such order of reference and a copy of such return and a copy of any memorandum of objection to such return shall be added to the paper-book in the case.

26.

If the respondent does not enter appearance or does not deliver the list in accordance with Rule 6, the paper-book shall be prepared in accordance with the list submitted by the appellant. (C) Appeals from Appellate Decrees and appeals under the Orissa High Court Orders arising therefrom

27. [[Substituted vide C. S. No. 59 (X-3/88 dated 15.4.1991).]

There will be paper-book in all appeals from appellate decrees when referred to a Division Bench consisting of the following papers originally in vernacular other than Oriya being translated into English by the party; the original language and script being indicated in brackets: (a) Plaint; Note - Lengthy Schedules and descriptions of boundaries appended to plaint may ordinarily be omitted. (b) The plaintiff's written statement, if any; (c) The defendant's written statement; Note - When there are several sets of defendants in a suit, the written statements of defendants' not parties to the Second Appeal either as appellants or respondents may be omitted. (d) The Judgement of the Court of the first instance; (e) The Judgement of the lower appellate Court; (f) Any Judgement or orders of remand passed in the case either by the lower appellate Court in appeal or by the High Court on second appeal; (g) The Memorandum of Second Appeal; and (h) A front leaf containing the number of the case, names of the judges of the two Courts below, names of the parties and of their Advocates, date of the institution of the suit, date of the Judgement of the first Court, date of the Judgement of the lower appellate Court, date on which the Second Appeal was filed, date of service of notice upon the respondents and date on which the case was ready for hearing; (i) The substantial question of law formulated in the Second Appeal: Provided that no paper-book shall be prepared in Second Appeal when it is heard by the single Judge. A brief be prepared consisting of the papers required to be included in the paper-book as provided in this rule.]

28.

(1)The appellate or respondent shall, before the hearing of the appeal, supply the Court and the opposite-party with copies of any document upon the consideration of which the considers the determination of the appeal depends. Such copies shall be of translation of such documents when in a vernacular other than Oriya. The copies must have been legibly written or typed in case of documents in the English language or translation in the said language on paper of good quality of the foolscap size.(2)Such documents shall not, in any case, be referred to without the special leave of the Court, but this rule shall not preclude the Court from referring to any paper to which it considers a reference necessary for the ends of justice.

29.

(1)No Charge shall be levied from the parties on account of the preparation of this paper-book, the original papers or certified copies filed being used for the composition thereof, if clean and clearly legible and the front leaf being prepared in the office of the Court. The parties may, however, obtain copies of such paper-books, not exceeding two in number, for each set of them prepared in the office of the Court at their cost on their applying therefor within seven days of the case appearing in the Weekly Cause List :Provided that if the Court so direct and if the papers specified in (a), (b) or (c) of Rule 27 are in a vernacular other than Oriya, the appellant shall furnish English translation thereof within ten days of the order for issue of notice on the respondent and thereafter the necessary copies shall be typed in the office of the Court at the cost of the appellant.(2)If a Second appeal is to be placed before a Division Bench for hearing or in the case of an appeal under the Orissa High Court Order arising therefrom, four copies of the paper-book shall ordinarily be prepared in type in the office of the Court, out of which one copy shall be supplied to the appellant and one to the respondent who has appeared or puts in his appearance first.(3)The Deputy Registrar shall, as soon as possible, make and deliver to the appellant an estimate of costs and the appellant shall within two weeks of the delivery of the estimate to him deposit by challan the amount of such estimate. In case the estimated cost exceeds Rs. 12 the respondent who has appeared or puts in his appearances first shall deposit half the amount of such excess subject to a maximum of Rs. 12 within two weeks of a notice to that effect being served on him by the Deputy Registrar.(4)In case of the appellant or the respondent failing to make the necessary deposit as above, the Registrar shall cause the appeals to be placed before a Bench for such order as it may deem proper.(5)Any surplus remaining after deducting the cost actually incurred from the amount deposited therefor shall be refunded on application to the party or parties as the case may be.(6)If more than one copy is required by any of the above parties or if any respondent appearing subsequently requests for a copy, the same shall be supplied on payment of the extra costs thereof :Provided that a memo to that effect is filed in the case of a Second Appeal within seven days of the order referring it to a Division Bench and in the case of an appeal under the Orissa High Court Order along with the memorandum of appeal so far as the appellant is concerned and within ten days of the service of notice so far as the respondent is concerned.(7)Papers or copies, dirty or not clearly legible, will not be accepted but will be replaced by typed copies prepared in the Court's office at the cost of the parties filing them.

30.

Additional paper-books supplied at the request of the parties shall be charged for at the rate of Rs. 20 per copy.

31.

In cases governed by one Judgement the Registrar, on application, may take a special order.

32.

The Registrar may, upon the application of any party and upon good and sufficient reason shown, give such special directions as to any of the matters to which the rules of this part relate as may be deemed fit, and may by special order exempt any party from the operation of any portion of the rules.

33.

In every appeal under the Orissa from the decision of a Single Judge in Second Appeal, the office shall ordinarily prepare four well typed copies of the memorandum of appeal under the Orissa High Court Order. The paper-books for use at the hearing of the appeal under the Orissa High Court Order shall be prepared from the paper-book used at the hearing of the Second Appeal. (D) Appeal from Orders and applications for review and revision

34.

(1) The rules for the preparation of paper-books in appeal from original decrees prescribed in Part B' of this Chapter shall apply to every first appeal from an order (including an order under Section 47 of the Code of Civil Procedure) passed by a Subordinate Court, not being an order under Order XXI, Rule 23 of the same Code, with the following modifications, viz : (a) that six copies only of the paper-book should be prepared. Two copies of the paper-book shall be retained for the Court; one copy of the paper-book shall be served on Counsel for the appellant and one copy on each set of respondents appearing through separate Advocates. Where there are more than three respondent in any appeal, within two weeks of the respondents entering appearance in the appeal, intimation must be given by filing of a memorandum that a copy of paper-book is required by such respondent. Where the demand for paper-book is more than six, the matter shall be placed before the Bench for appropriate direction. If there be failure to intimate the requirement of a copy of the paper-book in manner indicated above, the respondent shall not be entitled to a copy of the paper-book; (b) that for the papers required to be included in Part I of the paper-book the following shall be substituted. (i) the application or proceeding on which the order appealed against was passed; (ii) the petition, if any, filed in answer; (iii) the order appealed against; and (iv) the memorandum of appeal : Provided that no paper-book shall be prepared in appeal from orders to be heard by a Single Judge. If the Advocate wants to refer to any evidence or document, he shall be required to file attested

typed copies thereof after service of copies of the same on the Advocate appearing for the other side within seven days after the case is shown ready in the Weekly Cause List.

35.

(1) In Second Appeals from orders (including orders under Section 47 of the Code of Civil Procedure) of the value below Rs. [1,00,000] [Substituted vide C. S. No. 65 (X-2/92, dated 26.3.1992).] and in appeals from remand orders under Order XLI, Rule 23 of the same Code, the paper-book shall consist of -(a) The order or orders, Judgement or judgements of the Subordinate Court or Courts; and (b) The memorandum of appeal to the High Court. (2) The provisions of Rule 29 regarding the mode and the cost of the preparation of paper-books shall, as far as practicable, apply to this rule. (3) If a Second Appeal from an order is to be placed before a Division Bench for hearing or the appeal is valued at Rs. [1,00,000] [Substituted vide C. S. No. 65 (X-2/92, dated 26.3.1992).] and upwards, six copies of the paper-books shall ordinarily be prepared by roneo process in the office of the Court for use by the Court and the parties concerned. (4) If a Second Appeal from order is to be placed before a Single Judge for hearing the original papers and certified copies filed by the appellant may be used for the composition of the paper-book of clean and clearly legible. Otherwise the papers will be typed in the office at the cost of the appellant. (5) If a Second Appeal from order is to be placed before a Division Bench for hearing, four copies of the paper-book shall ordinarily be prepared in type in the office of the Court, out of which one copy shall be supplied to the appellant and one to the respondent first appearing. (6) The provisions of Rule 29 regarding preparation and cost of paper-book shall, as far as practicable, apply to this rule.

36.

(1) In the case of applications for review or revision, the paper-book shall be in type. The original papers and certified copies filed the applicant may be used for the composition of the paper-book, if clean and clearly legible. Otherwise, the papers will be typed in the office at the cost of the appellant. (2) If an application for review or revision is to be placed before a Divisions Bench for hearing, four copies of the paper-book shall ordinarily be prepared in type in the office of the Court, out of which one copy shall be supplied to the petitioner and one to the opposite-party first appellant. The provisions of Rule 29 regarding of paper-book shall, as far as practicable, apply to this rule.

37.

In an application for review of Judgement the paper-book shall contain -(i) the application; (ii) any affidavit filed with the application; (iii) any affidavit in reply; and (iv) the Judgement and the decree or order to which the application relates.

38.

In an application for revision the paper-book shall contain -(i) the application; (ii) the Judgement,

decree or order to which the application relates; and(iii)if the Judgement, decree or order to which the application relates was a Judgement, decree or order delivered by a Court sitting in appeal then a copy of the Judgement, decree or order of the Court of first instance, a copy of the memorandum of appeal to the appellate Court, a copy of any memorandum of objection to the decree of the Court of first instance, a copy of any order of remand, a copy of any return to any such order of remand and a copy of any memorandum of objection to such term.(E)Special Provisions

39.

(1)Notwithstanding anything contained in the rules of this Chapter, paper-books in appeals from original decrees valued at Rs. 20,000 or upwards shall be cyclostyled except in cases where the appellant intimates in writing that he wishes to go up in appeal to the Supreme Court when the paper-books shall be printed :Provided that the paper-book in an appeal from a decree in a suit for partition shall not be printed in the form required by the Supreme Court unless the Registrar, in his discretion, so directs :Provided further that the appellant shall supply five copies of typed paper-books prepared in accordance with rules when there is one respondent only. If there are more than one respondents as many additional copies of paper-books shall be supplied as there are respondents in excess of one.(2)The Registrar, in his discretion, may direct the paper-book in any appeal governed by Rule 34 to be printed in the form required by the Supreme Court.(3)The parties to any other may apply to have the paper-book prepared in the form required by the Supreme Court. Such application shall be in the form appended to this rule and shall be signed by all the parties on both sides or their Advocates and must be made to the Registrar before the deposit for printing is made. The Registrar may, for reasons to be recorded in writing, reject any such application.(4)When the paper-book is prepared in the Supreme Court form, the charges for the preparation of the record shall be the same as in cases of appeals to the Supreme Court and no extract from any paper other than an account shall be inserted in the paper-book.(5)When the paper-book is printed under this rule in the Supreme Court form, forty-five copies shall, ordinarily, be printed of which twenty copies shall be reserved to meet the contingency of an appeal to the Supreme Court.We the undersigned, request that the record in be printed in the form required for appeals to the Supreme Court and agree to bear the extra cost occasioned thereby.

1.

No decree for dissolution of marriage made by the Court, not being a confirmation of a decree of a District Court, shall be made absolute until after the expiry of six months from the date of pronouncing the said decree.

2.

When an appeal is referred under Section 98 of the Code of Civil Procedure, the judges who have differed shall each record his Judgement on the appeal, and the appeal shall thereupon be laid before the Chief Justice who shall direct by which Judge or Judges it shall be heard. The Chief Justice may be such other Judge or one of such other Judges.

3.

Whenever any suit, appeal, reference or other proceeding has been heard by two or more Judges and the Judges who heard the same have agreed to a written Judgement therein, such written Judgement, having first been signed by the Judges concerned, may be pronounced by any one of the Judges in the absence of the other or the others of them.

4.

Whenever any suit, appeal, reference or other proceeding has been heard by two or more Judges and each of such Judges has written a Judgement for himself or has agreed to a Judgement written by another Judge, and such judgements have been signed by the Judge or Judges who have written them, or in the case of a Judgement agreed to by two or more Judges by the Judge or Judges who have agreed, any one of such Judges may pronounce on behalf of any absent Judge or Judges the Judgement written or agreed to by such absent Judge or Judges.

5.

Every Judgement delivered and every order passed by the Court shall be recorded by a Judgement-writer except when the Court delivers a written Judgement.

6. [[Substituted vide C. S. No. 17- (X-5/84 dated 31.7. 1984).]

Every Judgement or order recorded in separate sheet by a Judgement-writer or Stenographer shall be filed by him with the record of the case to which it relates within three days from the date of delivery of the Judgement or passing of the order. At the top of the Judgement or order just below the heading and at the end of such Judgement or order he shall enter the date of delivery of the Judgement or passing of the order. He shall initial such record and shall be responsible for its safe custody until he filed it in the office.]

7.

When a Judgement or order recorded by a Judgement-writer has been filed, the Bench Clerk shall submit it for signature to the Judge or Judges who delivered or passed it unless such Judge or Judges otherwise order or have resigned or proceeded on leave, or are absent on account of illness or any other cause.

8.

When a written Judgement has been delivered or when a Judgement or order recorded by a Judgement-writer has been signed by the Judge or Judges who delivered or passed it, the Bench Clerk shall seal such Judgement or order with the seal of the Court.

9.

All decrees and orders shall be drawn up on English. The names of only those Advocates for the parties who are actually present at the hearing shall be shown in the decrees. No decrees or formal orders need be drawn up in Miscellaneous Appeals, Miscellaneous Judicial Cases and Civil Revision Cases which are disposed of without any order as to costs except in Civil Revision Cases arising out of Small Cause Court suits in which cases formal orders shall be drawn up.

10.

As soon as a decree or order has been drawn up, the Deputy Registrar shall cause a notice to be exhibited on the notice board stating that such decree or order has been drawn up and that it may be perused by any party or by his Advocate within one week from the date of the posting of the notice.

11.

When such notice has been posted, any party or his Advocate may, before the expiry of the time prescribed in the last preceding rule, peruse the decree and either sign it or file an objection to it on the ground that there is a clerical error or omission in the Judgement or that the decree is not in accordance with the Judgement.

12.

Every such objection shall state clearly what the clerical error or omission is or in what respect the decree is not in accordance with the Judgement and it shall be signed and dated by the party objecting or by his Advocate.

13.

When any such objection is made the Deputy Registrar shall put up the appeal or case together with the Judgement therein, the draft decree or order and the objection for orders before the Judge or Judges or one of them who delivered the Judgement; or if such Judge or Judges has or have ceased to be a Judge or Judges of the Court or be absent or leave or furlough then before such Judge or Judges as the Chief Justice may appoint for that purpose.

14.

Should no such objection be filed on or before the date specified in the notice the Deputy Registrar, having first dated the decree as of the day when the Judgement was delivered, shall sign it and seal it with the seal of the Court.

15.

Under no circumstances shall any Judgement, decree or order be altered, varied or departed from in any particulars except under an order in writing of the Judge or Judges who passed or made such Judgement, decree or order, or under an order made on appeal from such decree or order, or under an order made in review.

16. [[Inserted vide C. S. No. 52 (X-5/87/dated 9.12.1987).]

If judgments are not delivered within six months of the conclusion of hearing, the matter shall not be treated as part-heard and the same shall be placed before the Chief Justice for orders.]Chapter-XIV Probate and letters of administration

1.

Every petition or caveat made under this Chapter shall set forth the petitioner's or caveator's full name, the name of such petitioner's or caveator's father, his rank or degree in life, profession, occupation or trade and his true place or residence.

2.

The word "will" in this Chapter includes a "codicil".

3.

When an application for grant of probate or letter of administration is made, a copy of the application and of the valuation statement required by Section 19-1 (1) of the Court-fees Act VII of 1870 shall be sent together with the notice under Section 19-H (2) of the said Act to the Chief Controlling Revenue Authority.

4.

Every application for probate or for letters of administration with or without the will annexed shall be accompanied by -(a)A certificate of the Registrar as to duty having been paid or a certificate of the Taxing Officer that no duty is payable;(b)A certificate of the Registrar that no intimation has been received by the Court from any other High Court or from any District Court of any grant of probate or letters of administration of the property and credits of the deceased with effect throughout the whole of India.

5.

The Registrar may, if he deems it necessary, require proof in addition to the usual statement required to be made in the petition of the identity of the deceased or of the party applying for the

grant.

6.

No person who renounces probate of a will or letters of administration of the property of a deceased person in one character shall without the leave of a Judge take out representation to the same deceased in another character.

7.

In all applications by a creditor for letters of administration, it shall be stated particularly how the debt arose and whether the applicant has any and what security for the debt.

8.

Where the application for probate is not verified by more than one witness to the will in the manner prescribed by Section 281 of the Indian Succession Act XXXIX of 1925, the application shall be accompanied by a further affidavit setting forth the mode in which the alleged will was attested and that the requirements of Section 63 of the Indian Succession Act XXXIX of 1925 were complied with. This rule applies also to the probate of wills governed by the Hindu Wills Act XXI of 1870.

9.

Where a will contains a reference to any paper, memorandum or other document of such a nature as to raise a question whether it ought not to form constituent part of the will, such paper, memorandum or other document shall be produced in order to show whether it is entitled to probate, and, where not produced, its non-production must be accounted for. No paper, memorandum or other document can form part of will unless it was in existence at the time when the will was executed.

10.

On an application for letters of administration, unless otherwise ordered, a citation shall issue to all persons having a right to take the grant prior or equal to that of the applicant, unless such persons have signified their consent to the application, and, if so directed, a general citation shall be issued to all persons claiming to have any interest in the estate of the deceased.

11.

Where letters of administration are applied for by a creditor, a special citations shall be issued to the widow, if any, and to the next-of-kin, provided they shall be resident within the jurisdiction of the Court or have any known agent or agents residing within such jurisdiction and to the Administration-General of Orissa, and a general citation shall be issued to all persons claiming to

have any interest in the estate of the deceased.

12.

Under ordinary circumstances the date fixed for the hearing of the application for probate or letters of administration shall not be earlier than fourteen days from the date of despatch of the valuation statement.

13.

Every person to whom a grant of letters of administration other than grant under Section 241 of the Indian Succession Act XXXIX of 1925 is committed, shall give a bond to and in the name of the Chief Justice with one or more sufficient sureties to be approved by the Registrar. Such bond shall, in all cases, be prepared in the office of the Registrar in the prescribed form and shall, unless otherwise ordered by the Court, be given for the full value of the property for which the grant is to be made.

14.

With every certificate sent to a High Court under the provisions of Section 274 of the Indian Succession Act XXXIX of 1925 or Section 24 of the Administrator General's Act III of 1913 the Registrar shall send a copy of so much of the schedule of the property and credits of the deceased as relates to the estate within the jurisdiction of such Court.

15.

Only the grant and the will, if any, shall be copied in the register. Where the will is in a foreign language or in any vernacular other than Oriya the official translation only shall be copied.

16.

An exemplification or official copy under the signature of the Registrar and the seal of the Court of a grant so entered in the register of a will in respect of which a grant has issued may be obtained on payment of the prescribed fees.

17.

Any person intending to oppose the issue of a grant of probate or letters of administration must either personally or by his Advocate file a caveat before the Registrar. Notice of the filing of the caveat shall be given by the Registrar to the petitioner or his Advocate in the prescribed form.

18.

Where a caveat is entered after an application has been made for a grant of probate or letters of administration with or without the will annexed, the affidavit or affidavits in support shall be filed within eight days of the caveat being lodged, notwithstanding the long vacation. Such affidavit shall state the right and interest of the caveator and the grounds of the objection to the application.

19.

Where an application for grant of probate of letters of administration with or without the will annexed is presented after a caveat has been filed, the Registrar shall forthwith issue notice to the caveator calling upon him to file his affidavit or affidavits in support of his caveat within eight days from the service of the notice.

20.

Where the caveator fails to file an affidavit in support of his caveat in compliance with Rule 18 or in compliance with the notice issued under Rule 19 the caveat may be discharged by the Court.

21.

Upon the affidavit in support of the caveat being filed (notice whereof shall immediately be given by the caveator to the petitioner), the proceeding shall be numbered as a suit in which the petitioner for probate or letters of administration shall be the plaintiff and the caveator shall be the defendant; the petitioner for probate or letters of administration being registered as and deemed a plaintiff filed against the caveator and the affidavit filed by the caveator being treated as his written statement in the suit. The procedure in such suit shall, as nearly as may be, be according to the provisions of the Code of Civil Procedure.

22.

The party opposing a will may, with his affidavit, give notice to the party setting up the will that he merely insists upon the will being proved in solemn form of law and only intends to cross-examine the witness produced in support of the will, and he shall thereupon be at liberty to do so, and shall not, in any event be liable to pay the costs of the other side, unless the Court is of opinion that there was no reasonable ground for opposing the will.

23.

The Court may, on the application of the petitioner, before making the order mentioned in Rule 21 direct the trial of an issue as to the caveator's interest. Where, upon the trial or such issue, it appears that the caveator has no interest, the Court shall order the caveat to be discharged, and may order the issue of probate or letters of administration, as the case may be.

24.

Where the gross value of the estate as shown in the affidavit of valuation does not exceed Rs. 2,000, no Court-fee other than Court-fee under Article 11, Schedule I of the Court-fees Act on an estate the net value of which exceeds Rs. 1,000 shall be charged, provided the petitioner undertakes to pay the Court-fees leviable to the Government or other party entitled thereto, in case the estate shall thereafter be found to be of greater gross value than Rs. 2,000.

25.

The Court may, on the application of the Advocate-General or of any person claiming to be entitled to the fees payable under an undertaking giving in accordance with Rule 24, call upon the executor or administrator liable under the undertaking to pay such fees, and upon the hearing of the application, discharge the same, or make an order absolute for the payment of such fees, together with such order touching the costs of the application as it shall see fit, and every such order shall be enforceable in the same manner as any other order of Court whereby any party is directed to pay money or costs.

26.

In cases not provided for by this Chapter or by the rules or procedure laid down in the Indian Succession Act, 1925 or the Administrator-General's Act, 1913 or the Code of Civil Procedure, 1908 the practice and procedure of the Probate Division of the High Court of Justice in England shall be followed so far as they are applicable and not inconsistent with this Chapter and the said Acts.

27.

The Registrar shall transmit direct to the Indian Mission quarterly, true and attested copies of the wills of persons European extraction of which probates have been granted, and of inventories and accounts filed by the executors and administrators and a schedule of letters of administrations of estates of persons of European extraction granted during the preceding three months.

28.

Wherever a grant of probate or letters of administration is made and it appears from the application or is otherwise brought to the notice of the Court or the Registrar that any revenue-paying estate or share of such estate is included in the estate of the deceased in respect of which the grant is made, the Registrar shall notify the grant to the Collector of the district in which such estate or part of an estate is situated.

29.

Nothing in the rules in this Chapter shall apply to applications or acts to be done by the Administrator-General, in so far as they conflict with the provisions of the Administrator-General's Act III of 1913.

30.

The inventory and account to be furnished by an executor or administrator under Section 317 of the Indian Succession Act XXXIX of 1925 shall be in the prescribed forms and shall be verified in the manner as follows: "Ithe executor (or administrator) named in the above account do hereby declare that the said account is in every respect true, perfect and correct to the best of my knowledge, information and belief and that the same contains a full, true and perfect inventory of all the property in the possession of the deceased.....at the date of his death, and of all credits owing to him and of all debts owing by him." "I.....the executor (or administrator) named in the above account do hereby declare that the said account is true, perfect and correct to the best of my knowledge, information and belief, and that it gives a full, true, and perfect account of all the estate and effect of the deceased which has or have come into my hands, possessions, power, control, custody or knowledge and of the deposition of the same." Every such inventory or account and verification shall be subscribed by the executor or administrator in the presence of the Registrar of the Court or of some District Judge or Justice of the Peace. Chapter-XV Applications under Articles 226, 227 and 228 of the Constitution and rules for the issue of writs under the said Articles (except writs in the nature of habeas corpus)

1. [**Substituted vide C.S.No. 74, (X-3/2001, dated 18.9.2003.) w.e.f. 13.10.2003**]

(a) An application for direction or writ of mandamus, prohibition, quo warranto, certiorari or any other direction or order under Article 226 of the Constitution or on application under Article 227 of the Constitution will be addressed to the Chief Justice and His Companion Justices of this Court and will be placed before such Division Bench as the Chief Justice may direct by a general or special order. Provided that when a Division Bench is not available and in all cases when a single Judge functions as the Vacation Judge, a Single Judge may entertain an application under Articles 226 or 227 of the Constitution and pass an interim order but no final order shall be passed by such Single Judge. (b) Notwithstanding anything contained in Sub-rule (1) of Rule 1, the following categories of cases will be placed before such Single Judge as the Chief Justice may by general or special order directs: (i) All Writ Petitions under Article 226 and 227 of the Constitution arising out of a suit or a First Appeal; (ii) Writ Petitions arising out of O.L.R. Cases; (iii) Writ Petitions arising out of consolidation cases; (iv) Writ Petitions arising out of mutation and Survey Settlement Act and the Rules made thereunder; (v) Writ Petitions arising out of Regulation 2, 1956; (vi) Writ Petitions relating to quashing of the F.I.Rs. or inaction on F.I.Rs.; (vii) Some specific service matters namely; (a) Pension and family pension, (b) Matters relating to E.G.S. Volunteers, Swechhasevi Sikhya Sahayaks and Anganwadi Workers. (c) Arrear pay and allowances, Gratuity, provident fund and other

terminal benefits of employees.(viii)Writ petitions against award and orders of Motor Vehicle Claims Tribunal.(ix)Writ Petitions against awards and orders of Industrial Tribunals and Labour Courts under the Industrial Disputes Act.(x)Writ Petitions against the orders and awards of Co-operative Tribunal.(xi)Matters relating to Workmen's Compensation Act.(xii)All Essential Commodities Act matters, and(xiii)Cinematography matters.(xiv)[Writ petitions arising out of M.V. Taxation Act/Rules](xv)Writ petitions arising out of Gram Panchayat Act and Panchayat Samiti Act.(xvi)Writ petitions arising out of Indira Awas Yojana(xvii)Writ petitions arising out of Hindu Religious and Endowment Act(xviii)Writ petitions arising out of Academic matters(xix)Writ petitions arising out of E.S.I. Act.(xx)Writ petitions arising out of Electricity Act.]

2. [[Re-numbered vide C. S. No. 48 (X-2/87/dated 21.4.1987).]

(1)In every such application the applicant shall state whether he has or had made any other application to the Supreme Court or the High Court in respect of the same matter and how that application has been disposed of.(2)[Where an application under Articles 226 or 227 of the Constitution of India is refiled on the same cause of action after being withdrawn, the same shall be listed before the Bench which had permitted the withdrawal and in the event of the said Bench not functioning, the application shall be listed before a Bench constituted with the participation of one of the Judges of the earlier Bench.](3)In the event the applicant makes an application to the Supreme Court in respect of the same matter during the pendency of the application in the High Court, he shall forthwith bring this fact to the notice of the High Court by filing an affidavit in the case and shall furnish a copy of such affidavit to the other side.(4)The Court may adjourn the hearing of the application made to it pending the decision of the Supreme Court in the matter.]

3.

(1)[The applications shall be accompanied by a statement setting out the name and description of the applicant and of the party against whom relief is sought and the particulars of the proceeding/proceedings which is/ are sought to be challenged or quashed, and the grounds on which it is sought.] [Substituted vide C. S. No. 5-X-8/83/25.3.1983.][In the application, the petitioner, after supplying the aforesaid information, shall also incorporate in a separate paragraph whether alternate remedy, if any, available under any statute has been availed or not.] [Added vide C. S. No. 49-X-13/86/4.5.1987.] [The same shall also contain the provisions of law under which it is filed, the reliefs sought and the orders or actions impugned in the first few paragraphs] [Added vide C. S. No 39-X-13/86/5.9.1986.](2)The facts relied on in the application shall be verified by an affidavit.(3)The application shall be accompanied by a certified copy or certified copies of the relevant order or orders. In case a certified copy of any order is not available in law, an attested copy of such order may be filed.(4)The material documents referred to or relied upon in the application, shall also be filed along with the application :Provided that the Court may, in its discretion, dispense with the production of the same.

4.

When the direction, order or writ is sought against the Government or public officer acting or purporting to Act in discharge of an official duty under the Government, a copy of the application with annexures, if any, shall be served on the Advocate-General not later than the noon of the day preceding that on which the application is moved. When such direction, order or writs is sought against any Department of the State or any statutory authority or any public officer acting or purporting to Act under a statute and there is a Counsel engaged by such Department, authority or officer, such a notice shall also be served on such Counsel.

5.

Every application shall be registered as an Original Jurisdiction Case on the day following the date of presentation thereof; but a case in which a memorandum has been filed for being listed on the day following the date of presentation shall be registered immediately. The date of registration shall be noted below the date of presentation in the Register of Original Jurisdiction Cases.

6.

The record of an Original Jurisdiction case except a case in which a memorandum has been filed for being listed on the day following the date of presentation shall be sent for stamp report on the day following the date of its registration. The Stamp Reporter shall return the record with his report on the next date of receipt thereof.

7. [[Substituted vide C. S. No. 37 (X-3/86/4.5.1987).]

In Original Jurisdiction Cases defects, if any, pointed out by the Stamp Reporter shall be removed within five days from the date of publication of the defects in the Supplementary Cause List supplied to the High Court Bar Association, failing which the case shall be placed before [Deputy Registrar] within three days thereafter for orders] :Provided that the Registrar may refer any matter to the Court for orders.

8.

When the defects are not removed or when the orders of the [Deputy Registrar] [Substituted vide C. S. No. 41 (X-86/22.10.1986).] are not complied with in any case within the time allowed by him the Original Jurisdiction Case shall be placed before the Bench within three days for dismissal.

9.

[Unless the Court sees no sufficient cause to admit the application and rejects it, notice of the application shall be served on all parties to the proceedings to show cause by a date fixed and where the application relates to any proceedings in or before a Subordinate Court or authority and the

object is either to compel such Court or any officer thereof or any authority to do and act in relation to such proceedings or to quash them or any order made therein, notice to show cause shall also be served on such Court or officer or authority, as the case may be, with directions to produce or cause production of the records of the proceeding along with its or his return. Every notice under this rule shall be accompanied by copies of the application and affidavit and annexures, if any.] [Substituted vide C. S. No. 6 (X-83/25.3.1983).]

10.

(1) Any answer showing cause against such an application shall, except with the leave of the Court be made by filing an affidavit and by serving copies thereof upon the applicant or his Advocate and also the other opposite-parties who have entered appearance or their Advocates, as the case may be, not later than the date fixed for showing cause.[* * *] [Deleted vide C. S. No. 63 (X-8/87/21.2.1992).](2)[] [Re-numbered vide C. S. No. 63 (X-8/87/21.2.1992).] A further reply or counter-affidavit by any party to the proceedings, as the circumstances may require may be filed with the leave of the Court.

11.

The Court may in its discretion implead any person as party to the proceeding and unless the Court otherwise orders rule nisi together with copies of the petition and the affidavit in support thereof along with annexures, if any, shall be served on all persons directly affected and such other persons including the person impleaded subsequently as party to the proceeding as the Court may direct :Provided that if any of the aforesaid persons desired to file any counter affidavit in reply, he may do so with the leave of the Court and such counter affidavit shall be filed after service on the petitioner and on the opposite-party within a week from the date of the order.

12.

Upon making the order for a rule nisi the Court may, if it thinks fit, grant such ad interim relief to the petitioner as the justice of the case may require upon terms, if any, as it may consider just and proper.

13.

A list of cases ready for admission and hearing shall be prepared and published in accordance with Rule 16, Chapter IX.

14.

On admission of the case, notice shall issue on the day following the date of filing of the requisites in accordance with rules.

15.

The indexing cost of Rs. 5 required to be deposited under Rule 16 shall be paid unto the Court within ten days of the date of admission or directions by the Bench for issue of notice on admission and hearing of the Original Jurisdiction Case, failing which the procedure indicated in Rule 8, shall be followed.

16.

On deposit of the indexing costs as required by Rule 15 the office will prepared a combined table of contents of all the papers filed by the parties in support of or in opposition to the application. Such table of contents shall be attached to the paper-books prepared for the Court and copies of such table of contents shall also be supplied to the parties before the case is made ready for hearing.

17.

All question arising for determination under this Chapter shall ordinarily be decided upon affidavit, but the Court may direct that such questions as it may consider necessary be decided on such other evidence as it may deem fit. Where the Court orders that certain matters in controversy between the parties shall be decided on such evidence, the procedure prescribed in the Code of Civil Procedure, 1908 for the trial of suits shall so far as applicable be followed.

18.

In case of difference of opinion between the Judges composing the Division Bench, the application shall be referred to and heard by such Judge or Judges either sitting apart from or with the differing Judges as the Chief Justice may direct, and shall be decided according to the opinion of the majority of the Judges who have heard the application including those who first heard it.

19.

The Court may impose such terms as to costs and security as it thinks fit.

20.

(1)Annexures to writ petitions shall be numerically marked with the figures 1, 2, 3 and so on.(2)Annexures to counters filed by opposite-parties shall be alphabetically marked in manner following.(3)in a case in which there is only one opposite-party, annexures to the counter filed by such opposite-party shall be marked as A, B, C and so on.(4)When there are two or more opposite-parties, annexures filed by the first opposite-party shall be marked as A-1, B-1, and C-1, etc. and those filed by other opposite-parties shall be marked as "A-(the number against which the name of the opposite party filing the counter appears in the writ petition)" and B-(the number against which the name of the opposite-party filing the counter appears in the writ petition", etc. For

example, when opposite-party No. 9 filed annexures, he should mark those as A-9, B-9 and C-9, etc.(5)When two or more of the opposite-parties file a joint counter with annexures, the annexures shall be marked as "A-(the number against which the name of the foremost of the opposite-parties filing the joint counter appears in the writ petition)" and "B-(the number against which the name of the foremost of the opposite-parties filing the joint counter appears in the writ petition)" etc. for Example, if opposite-party Nos. 2, 3, and 9 file a joint counter, the annexures will be marked as A-2, B-2 and C-2, etc.(6)When documents are called for and taken to record at the instance of the Court and neither party is willing to have those marked as annexures on his behalf, those shall be marked as I, II and III etc.

21.

(1)The writs issued by the Court shall be served on the opposite-parties in person.(2)The petitioner who will succeed in the writ petition shall pay to the Court, for the purpose of issue of the writs, process fee of Rs. 4.50 for the first four persons and Re. 0.75 for each of the other opposite-parties, as well as two sets or registered postal requisites with acknowledgement due for each opposite-party within three days of the date of delivery of Judgement :Provided that if there are more opposite-parties than one residing within the jurisdiction of the same serving Court, as many postal requisites with acknowledgement due along with one extra set shall only be filed:Provided further that if the requisite are not filed within the prescribed period, the case shall be placed before the Bench immediately for appropriate orders.(3)If the opposite-party on whom the writ is to be served resides in the State of Orissa, the writ in duplicate duly addressed to him shall be despatched by registered post with acknowledgement due to the Court within the jurisdiction of which the opposite-party ordinarily resides. If an opposite-party resides outside the State of Orissa the writ in duplicate addressed to the said opposite-party shall be sent to the Court within the jurisdiction of which he ordinarily resides. While despatching the writ in duplicate, one set of postal requisites with acknowledgement due shall be attached to facilitate the serving Court to despatch the duplicate copy with service report by registered post with acknowledgement due.(4)The Serving Court after due personal service of the writ on the opposite-party shall submit such report of service on the duplicate copy of the writ and despatch the same to this Court by registered post with acknowledgement due.

22.

Every order passed on civil applications under Article 226 of the Constitution including any order as to costs shall be drawn up as if it were a decree and shall be executable as a decree in manner provided in Chapter XXVIII.

23.

These rules shall apply so far as practicable to applications under Articles 227 and 228 of the Constitution.Chapter-XVI Rules to regulate proceedings under Article 226 of the Constitution of India for issue of writs in the nature of Habeas Corpus

1.

An application for a writ of habeas corpus shall be filed before the Bench presided over by the Chief Justice and when no such Bench is sitting before any other Bench and shall be accompanied by an affidavit by the person restrained stating that it is made at his instance and setting out the nature and circumstances of the restraint; and a copy of the application will be served on the Advocate-General before filing :Provided that where the person restrained is unable, owing to the restraint, to make the affidavit the application shall be accompanied by an affidavit to the like effect made by some other person, which shall state the reason why the person restrained is unable to make the affidavit himself.

2.

The application, if received by post, shall be put up as soon as possible before the Chief Justice for orders.

3.

The application shall be heard by a Division Bench presided over by the Chief Justice or by any other Bench under special direction of the Chief Justice, except in vacation when it may be heard by a Single Judge but no final order shall be passed by him.

4.

If the Court is of opinion that prima facie case for granting the application is made, a rule nisi shall be issued calling upon the person or persons against whom the order is sought, to appear on a day to be named therein to show cause why such order should not be made and at the same time to produce in Court the body of the person or of each of the persons alleged to be illegally or improperly detained then and there to be dealt with according to law.

5.

On the day fixed for return of such rule or on any day to which the hearing may be adjourned, may be adjourned, if no cause is shown or if cause is shown and disallowed, the Court shall pass an order that the person or persons improperly detained shall be set at liberty. If cause is followed the rules shall be discharged. The order for release made by the Court or the Judge shall be a sufficient warrant to any gaoler, public official or other person for the release of the person under restraint.

6.

In disposing of any such rule the Court may in its discretion make such order for costs as it may consider just.

7.

In case of difference of opinion between the Judges composing the Division Bench, the application shall be referred to and heard by such Judge or Judges as the Chief Justice may appoint and shall be decided according to the opinion of the majority of Judges who have heard the application including those who first heard it. The application shall be re-argued before the Judge or Judges to whom it is referred either sitting apart from or with the referring Bench as the Chief Justice shall direct.

8.

In the case of an application where no lawyer is engaged by the applicant, the Court may, if considered necessary, appoint a lawyer at Government expense to represent him.

9.

Every application under this Chapter shall ordinarily be heard and disposed of within 15 days of the receipt thereof.

10.

While disposing of an application under this Chapter the Court may make an order for payment by one side or the other the costs of the rule.

11.

Final orders passed by the Court shall be communicated for compliance to such person or persons as may be necessary.

12.

The form of warrant (Form No. 1- Criminal) given In Appendix 'H' at page 199 of volume II shall be followed. Chapter-XVII Rules to regulate contempt proceedings In exercise of the powers conferred by Section 23 of Contempt of Courts Act, 1971 (Act 70 of 1971), the High Court of Orissa hereby makes the following rules :Part -I 1. These rules may be called Contempt of High Court of Orissa and Court Subordinate to it (Regulation of Proceeding) Rules, 1975.

2.

In respect of contempt other than the contempt referred to in Sub-section (1) of Section 14 of the Contempt of Courts Act, 1971 (Act 70 of 1971), the High Court may take cognizance of contempt -(a)suo motu;(b)upon a petition made by the Advocate-General of the State of Orissa;(c)upon a petition presented by any other person with the consent in writing of the Advocate-General;(d)upon a reference made by a Court a subordinate to it relating to contempt of such subordinate Court.

3.

(a) Every petition under Rule 2 (b) and (c) shall contain -(i) the name, description and place of residence of the petitioner or petitioners and of the person charged; (ii) nature of the contempt alleged and such material facts, including the date or dates of commission of the alleged contempt, as may be necessary for the proper determination of the case; (iii) If any petition had been previously made by him on the same facts and the result thereof. (b) Every such petition shall be supported by affidavit. (c) No Court-fee shall be charged on any such affidavit. (d) Where the petitioner relies upon any document or documents in his possession or power, he shall file such documents or documents or true copies thereof along with the petition.

4.

[(1)] [Re-numbered vide C. S No. 32 (X-18/86/23.9.1986)] Every petition under Rule 2 (b) and (c) shall be posted before the Court for preliminary hearing and for orders as to issue of notice. Upon such hearing, the Court, if satisfied that a prima facie case has been made out for issue of notice, shall direct issue of notice to the contempt either to show cause why proceedings under the Act may not be initiated against him or to show cause why the contemner may not be suitably punished, and when no prima facie case is found the petition shall be dismissed. (2) [In matter covered by Rule 2 (a), if the Court is satisfied that there is a prima facie case it shall issue notice to contemner either to show cause as to why a proceeding under the Act may not be initiated against him or why he may not be suitably punished.] [Inserted vide C. S .No. 32 (X-18/86/23.9.1986).]

5.

(a) All reference made by the subordinate Courts under Rule 2 (d) shall contain the particulars as mentioned in Rule 3(a) (i) and (ii). (b) The subordinate Courts shall transmit all relevant documents or copies thereof along with the letter of reference. (c) All reference made under Rule 2 (d) by the subordinate Courts except the Courts of District and Sessions Judges shall be forwarded to the respective District and Sessions Judges for report who shall transmit the same to the High Court expeditiously.

6. [Substituted vide C. S. No. 33 (X-18/86/23.9.1986).]

Matters covered by Rule (d) shall be placed by the Registrar before a Division Bench presided over by the Hon'ble Chief Justice, and in his absence before a Division Bench presided over by the senior most Puisne Judge who will take such decision regarding initiation of the proceeding as may be deemed fit and proper and the same will be dealt with in accordance with the provisions contained in Rule 4, as far as practicable.]

7.

[(a)] [Re-numbered vide C. S. No. 64 (X-3/91/1992).] All proceedings under the Act in respect of criminal contempts only shall be heard by a Division Bench of the Court.(b)[Cases of Civil contempt shall be heard by Single Bench when it arises out of the proceedings before a Single Judge or by a Division Bench when it arises out of the proceeding before a Division Bench.] [Inserted vide C. S. No. 64 (X-3/91/1992).]

8.

(a)All proceedings under the Contempt of Courts Act, 1971 shall be registered as Original Criminal Miscellaneous Cases.(b)The Registrar shall cause the notice to be served to the person charged in Form I as appended hereto. The person charged shall, unless otherwise ordered, appear in person before the Court on the date fixed for hearing of the proceeding, and shall continue to remain present during hearing unless otherwise directed.(c)[Notice to the contemner to show cause why proceedings under the Act may not be initiated against him shall be issued in Form IV as appended hereto and the contemner may, unless otherwise ordered by the Court, appear through Advocate or Agent.] [Inserted vide C. S. No. 55 (X-10/87/8.3.1989).](d)[[Re-numbered vide C. S. No. 55 (X-10/87/8.3.1989).] When action is initiated on a petition, a copy of the petition along with the annexures and affidavits shall be served upon the person charged.(e)[[Re-numbered vide C. S. No. 55 (X-10/87/8.3.1989).] In all proceedings started suo motu or on a reference made by a Court subordinate to the High Court, a copy of the notice in Form I shall be sent to the Advocate-General.

9.

In all cases, cognizance of which has been taken suo motu or on a reference made by the subordinate Court, the State of Orissa shall be described as the petitioner and the Advocate General shall conduct prosecution for contempt in such cases.Provided that in a case where cognizance has been taken suo motu, the Court may direct that the Registrar or any other officer of the Court shall be the prosecutor.

10.

The person charged shall file his reply duly supported by an affidavit or affidavits and shall enclose all documents on which he proposes to rely.

11.

No further affidavit or document shall be filed except with the leave, or under direction of the Court.

12.

(a)The Registrar may issue fresh notice if he consider that the service of notice is not sufficient.(b)If the Registrar considers service to be sufficient and the persons charged with contempt does not appear on the date fixed, the matter shall be posted for orders of the Court.

13.

(a)If the Court is satisfied that the service of notice is sufficient or it has reason to believe that the person charged is absconding or is otherwise evading service of notice or if he fails to appear in person or continues to remain absent in spite of notice, it may direct issue of a warrant bailable or non-bailable for his arrest, addressed to one or more Police Officers or may order attachment of property. The warrant shall be issued under the signature of the Registrar. The warrant shall be in Form II and shall be executed, as far as may be, in the manner provided for execution of warrant under the Code of Criminal Procedure, 1973.(b)The warrant shall be executed by the officer or officers to whom it is directed and may also be executed by any other Police Officer whose name is endorsed upon the warrant by officer to whom it is directed or endorsed.(c)Where a warrant is to be executed outside the State of Orissa, the Court may, instead of directing such warrant to a Police Officer, forward it to the Magistrate of the district or the Superintendent of Police or the Commissioner of Police of the district within which the person charged is believed to be residing. The Magistrate or the Police Officer to whom the warrant is forwarded shall endorse his name thereon and shall cause it to be executed.(d)Every person who is arrested and detained shall be produced before the nearest Judicial Magistrate or the Metropolitan Magistrate, as the case may be, within a period of 24 hours of such arrest excluding the time necessary for the journey from the place of arrest to the Court of the said Magistrate and. no person shall be detained in custody beyond the said period without the authority of either a judicial Magistrate or a Metropolitan Magistrate, as the case may be.

14.

The Court may, either suo motu or on motion made for that purpose, order the attendance for cross-examination of a person whose affidavit has been filed in the matter.

15.

The Court may make order for the purpose of securing the attendance of any person to be examined as a witness and for discovery of production of any document.

16.

The Rules of the High Court of Orissa, as amended from time to time, shall apply to matters not specifically provided for in this Part of the Rules.Part - II 17.In all proceeding under the Act, at least five copies of the paper-book shall be prepared one for the prosecutor and another for the

contemner and the remaining for the use of the Court. The paper-book in each case shall be prepared at the expense of the State. The paper-book shall contain the following papers : (i) Petition and affidavit filed by the petitioner and where the charge of contempt is based on the content a document/documents, the same; (ii) A copy of statement relating to the matter constituting the alleged contempt; (iii) Notice to show cause containing the particulars of the alleged contempt against the contemner; (iv) Affidavit or other documents intended to be relied upon as evidence by the contemner in support of his case which are received or produced in the Court; (v) Any other document which the Court directs for inclusion. Part - III 18. If a person charged with contempt is adjudged guilty and is sentenced to suffer imprisonment, a warrant of commitment and detention shall be made out in Form II under the signature of the Registrar. Every such warrant shall remain in force until it is cancelled by order of the Court or until it is executed. The Superintendent of Jail shall, in pursuance of the warrant, detain the contemner in custody for the period specified therein subject to such further directions as the Court shall give.

19.

(a) The Court shall fix the subsistence allowance when the contemner is committed to Civil Prison in accordance with his status. (b) In case of suo motu proceedings and proceedings under reference where the State of Orissa is the prosecutor, such subsistence allowance shall be borne by the State. (c) In other proceedings where the prosecutor is a private party, the contemner shall not be arrested unless and until the subsistence allowance, as fixed by Court, is deposited into Court.

20.

If the Court awards a sentence of fine and the fine amount is not paid at once or within such time as may be granted by the Court, the Registrar shall take action in any one of the ways as provided in Section 421 of the Code of Criminal Procedure, 1973.

21.

(a) The Court may award such cost as it may deem fit in the circumstances of the case. (b) Where the costs are awarded in proceeding relating to criminal contempt, the same shall be recoverable as if it were fine. (c) Where the costs are awarded in a proceeding relating to civil contempt, the order shall be deemed to be a decree under the Code of Civil Procedure, 1908 and may be recovered by execution in the manner provided under Chapter XXV, Part V of the Rules of the High Court of Orissa, Volume I. Form I Notice to a person charged with contempt of Court In The High Court Of Orissa, Cuttack Original Criminal Misc. Case No of.....Petitioner Versus Opposite Party To Whereas Whereas it appears that you by your acts, conduct, utterances and writings committed contempt of Court in the facts and circumstances stated herein below : (Briefly state the facts and circumstances and the nature of contempt) You Shriare hereby required to appear in person (or by Advocate, if the Court has so ordered) and show cause before the Court at Cuttack on the day of 20.....at.....A.M. why you shall not be punished or other appropriate order be not passed against you for contempt of the High Court of Orissa/subordinate Court (name of the Court). You shall attend the Court in person on day of at A.M. and shall continue to attend the Court

on all dates thereafter to which the case may stand adjourned and until final orders are passed on the charge against you. Herein fail not. Given under my hand and the seal of the Court, this the day of.....20.....Registrar Form - III In The High Court of Orissa, Cuttack Original Criminal Misc. Case No of....To (Name and designation of the person or persons who is or are to execute the warrant). Whereas of is charged with committing contempt of this Court, you are hereby directed to arrest the said and to produce him before this Court. Herein fail not. (If the Court has issued a bailable warrant, the following endorsement shall be made on the warrant). If the said.....shall give shall bail in the sum of Rs.....with one surety in the sum of Rs..... (or two sureties each in the sum of Rs.....) to attend before this Court on the day of 20 and to continue so to attend until otherwise directed by this Court, he may be released. Dated this the....day

of.....20..Registrar Form-III Warrant of commitment for contempt In The High Court of Orissa, Cuttack Original Criminal Misc. Case No of.....To The Superintendent (of Keeper) of the Jail at.....Whereas this Court on this the day of 20 adjudged (name of the contemner with address) guilty of wilful contempt of Court, and he has been sentenced to suffer imprisonment for a term of (here specify the term) and/or to pay a fine of rupees.....This is to authorise and require you, the Superintendent (or Keeper) of the said Jail to receive the said (name of the contemner) into your custody, together with his warrant, and him safely to keep in the said Jail for the said period of (term of imprisonment) or for such shorter period as may hereafter be fixed by order of this Court and intimated to you. You are directed to return this warrant with an endorsement certifying the manner of its execution. You are further directed that while the said is in your custody, produce the said .before the Court, at all times when the Court shall so direct. Given under my hand and the seal of the Court, this the.....day of.....20.....Registrar [Form-IV [Inserted vide C.S.No. 56 (X-10/87 dated 8.3.1989).] Notice to a person to show cause in the High Court of Orissa, Cuttack Original Criminal Miscellaneous Case NO of....Petitioner Versus Opp.

Party To.....Whereas (i) a petition has filed before this Court (a copy whereof is enclosed) to initiate a proceeding against you for contempt, or, (ii) Cognizance of contempt has been taken by the Court suo motu (vide enclosure). You (name and address).....are hereby required to show cause before the Court at Cuttack on.....at.....A.M. either in person or through Advocate or agent as to why a proceeding shall not be initiated against you under the Contempt of Courts Act. In default of your showing cause this Court will proceed to consider the matter and pass suitable orders in accordance with law. Given under my hand and the seal of the Court this.....day of 1988. By Order of the Court] Chapter-XVIII Procedure in Criminal Cases (A) General

1.

The rules in Chapter VI shall apply, as far as possible, to applications made under this Chapter.

2.

After the case is admitted, the party at whose instance notice is to be issued shall file within 7 days of the date of admission, typed copies of the application and affidavit to be served on the other parties and the State. Failing compliance, the case shall be placed before the Bench with office not, for dismissal.

3.

No Advocate shall be entitled to make or do any appearance, application or act in any criminal case or proceeding for any person unless he presents an appointment in writing duly signed by such person or his recognised agent or by some other agent duly authorised by power-of-attorney to act in his behalf, or unless he is instructed by an Attorney or Advocate duly authorised to act on behalf of such person: Provided that no such appointment in writing shall be necessary in the case of an Advocate appointed by the Government or the Court to act, appear or plead on behalf of an accused or convicted person.

4.

No application for admission to bail shall be made without notice in writing given to the Public Prosecutor not later than noon of the day preceding that on which the application is to be made.

5.

(1) Every application for bail shall contain full particulars including the case number, the name of the Sessions Judge, if any, and the name of the trying Magistrate or the name of the committing Magistrate, as the case may be. (2) ["Every petition for relief on criminal matters shall contain a declaration supported by an affidavit of the applicant himself or his authorised agent stating if, any other application either under section 438 or 439 Cr.P.C. or u/s. 482 Cr.P.C. or Criminal Revision or a Writ Petition (Crl.) concerning the same case of the Court below is pending or has been disposed of by the High Court or any other Court upon such petition being filed either by the applicant or by any party to such proceeding including the accused involved in the case with result thereof if such case is disposed of". (3) "For the purpose of making the declaration as provided in Sub-rule (2) above, the applicant or his agent may on furnishing the P.S./G.R. Case No. obtain relevant information from the Computer Section of the High Court by making an application to the Deputy Registrar (Judicial) of the Court on payment of a fee of Rs.5 in shape of Court Fees and where any such application is made, the requisite information shall be supplied to the applicant.] [Inserted vide C.S. No. 79 (O.G.No. 22 dated, 1.6.07).] (4) [[Re-numbered vide C.S. No. 79 (O.G.No. 22 dated, 1.6.07).] Bail orders passed by the High Court shall be sent directly to the Courts concerned. The amount of bail, number and nature of sureties etc., may be ordinarily indicated therein. A copy of the order shall also be forwarded to the Chief Judicial Magistrate who shall send the same forthwith to the Magistrate concerned or his successor in office or the Magistrate placed in charge of his duties, for necessary action. When the order of bail relates to a case pending in a Court in an outlying subdivision, a copy should also be sent to the Sub-divisional Judicial Magistrate of such subdivision for necessary action.

6.

A copy of every notice issued on admitting an appeal and also copies of notices issued on admitting revision and motion cases where the Magistrate is given an opportunity of showing cause, shall be

sent to the Advocate-General of Orissa.

7.

On every Saturday, or if a Saturday be a holiday on the last working day of the week, the Registrar shall cause to be prepared a complete list of the cases pending before the Court excepting those in which notices have not been issued. This list shall be called the Weekly Cause List and shall consist of two parts, viz. Part I showing cases ready for hearing and Part II showing cases which are not ready for hearing but in respect of which notices have been issued. Cases made ready during the week shall be entered at the bottom of Part I and those in respect of which notices only have been issued during the week at the bottom of Part II under appropriate headings.

8.

(1) From Part I of the Weekly Cause List, the Registrar shall each day cause to be prepared and posted on the notice board of the Court a list of cases to be taken up by each Bench on the following day. This list shall be called the Daily Cause List and a copy of it shall be submitted to each Judge. (2) Cases shall be taken on to the Daily Cause List from the top of Part I of the Weekly Cause List strictly in the order in which they stand therein and there shall be no deviation therefrom except upon special orders either of the Registrar or of the Bench. The Daily Cause List shall, when possible, be kept sufficiently long to provide approximate work for three days : Provided that cases in which no paper-book is to be prepared, bail petitions, all cases in which bail has been refused, applications for transfer of cases and cases admitted only on the question of sentence shall be separately classified and shown both in Part I and in Part II of the Weekly Cause List under the heading "Expedition Cases" and shall have preference over other cases and shall ordinarily go on to the Daily Cause List after being on Part I of the Weekly Cause List for three days : Provided further that Death Reference cases shall be directly placed on the Daily Cause List three days after service of the paper-books. (3) The Registrar shall have the paper-books of the cases in Part II of the Weekly Cause List prepared strictly in order of issue of notice and receipt of record and this order shall not be deviated from in the absence of a special direction with regard to any particular case from the Registrar or the Bench : Provided that Death Reference cases, bail petitions cases in which bail has been refused applications for transfer of cases and cases admitted only on the questions of sentence shall have precedence over other cases in preparation for hearing and the Registrar shall have the paper-book in such cases prepared at once according to the prescribed rules. In all such cases, the word "Expedition" shall be marked boldly in red ink on the front page of the order-sheet.

9.

(1) The rules for the preparation of paper-books in Chapter XI (A) shall apply, as far as may be, to the preparation of paper-books in criminal cases. (2) A copy of the paper-book shall be supplied to the Advocate-General free of cost and the Advocate for the parties may take copies of paper-books on payment of Rs. 15 per copy.

10. [[Substituted vide C.S.No. 54 (X-11/87 dated 8.2.1989).]

The following Forms of Oaths and Affirmation are prescribed by the Court under Section 6 of the Oaths Act, 1969 (Act 44 of the 1969): Form No. 1 (Witnesses) Oath I.....do swear in the name of the God that what I shall state shall be truth, the whole truth and nothing but the truth. Affirmation I do solemnly affirm that what I shall state shall be the truth, the whole truth and nothing but the truth. Form No. 3 (interpreters) Oath Ido swear in the name of God that I will well and truly interpret and explain all questions put to and evidence given by witnesses and translate correctly and accurately all documents given to me for translation. Affirmation I do solemnly affirm that I will well and truly interpret and explain all questions put to and evidence given by witnesses and translate correctly and accurately all documents given to me for translation]. (B) Procedure in Original Trials

11.

(1) Subject to any order which may be made by a Bench, the Registrar shall, as soon as an order under Section 407 (1) (iv) of the Code of Criminal Procedure is passed by the Court for trial of a case before itself fix a date for hearing, and shall cause the necessary notices in the prescribed forms to issue. (2) In the case of the commitment of an accused charged with an offence punishable with death, the Registrar shall take steps to ascertain whether the accused has funds or not to employ his own Advocate and shall, if necessary, at the earliest possible stage, obtain the orders of the Chief Justice for the appointment of an Advocate for the accused.

12.

As soon as the record is received the Registrar shall cause a paper-book to be prepared.

13.

The paper-book shall contain the following papers : (i) first information report, if any; (ii) record of any statement under Section 164 and examination under Secs. 313 and 281 of the Code of Criminal Procedure; (iii) the proceeding, if any, on which cognizance was first taken under Section 190 of the same Code; (iv) the charge; (v) documentary evidence, if any; and (vi) police chalan, if any.

14.

Eight copies of the paper-book shall be prepared. One copy shall be given to the Public Prosecutor, two to the accused's Advocate and four copies shall be retained for the use of the Court.

15.

At least two working days before the date fixed for the hearing, the Registrar shall cause to be made over to the Advocate General a statement showing the number and the names of the witnesses who

have been summoned.(C)References in Capital Cases

16.

When proceeding are submitted to the High Court under Section 366 of the Code of Criminal Procedure, the Registrar shall cause the record to be examined and entered in the prescribed registers.

17.

If the record is in order, the Registrar shall fix a date for hearing the reference and shall at once cause a paper-book to be prepared.

18.

The paper-book shall contain the following papers : (a) police chalan; (b) first information, if any; (c) statement under Section 164 of the Code of Criminal Procedure, if any; (d) charges framed by the Session Judge; (e) examination of the accused under Section 313 and 281 of the same Code, if any; (f) record of evidence in the Court of Session with any further examination under Section 281 of the same Code; (g) Judgement of the Sessions Judge; (h) material documentary evidence, if any; (i) petition of appeal, if any; (j) Order-sheet; and (k) list of exhibits.

19.

Twenty copies of the paper-book shall be printed and immediately on receipt of the paper-book the Registrar shall cause one copy to be sent to the Public Prosecutor, one copy to the Government Advocate, and two to the prisoner's Advocate; the remaining copies shall be retained for the use of the Court. [Explanation [Added vide C. S. No. 26 (X-14/86 dated 27.8.1986).] - Printing for the purpose of this Rule includes cyclostyling and typing and printed record includes cyclostyled or typed record.]

20.

When a cause has been disposed of the record shall be returned by the Bench Clerk to the Trial Clerk, who shall at once prepare a formal order in the prescribed form without waiting for the Judgement, a copy of which shall subsequently be sent to the Court concerned.

21.

In a case where a sentence of death has been confirmed the decision shall be communicated to the condemned prisoner and a copy of the Judgement, free of cost, shall be immediately supplied to the condemned prisoner through his Advocate or through the Superintendent of the Jail in which he is confined.

22.

In any case referred to the High Court for confirmation of a sentence of death, the Registrar shall, immediately on arrival of the record, lay the same, when necessary, before the Chief Justice for the appointment of an Advocate to take up the case for the accused.(D)Criminal appeals

23.

Criminal appeals other than Jail appeals shall be presented in open Court.Note - The name of the father and residence of each appellant shall be stated in the petition of appeal.

24.

Every Criminal Appeal preferred to the Court under Section 382 and 377 of the Code of Criminal Procedure, 1973 should be in the form of a petition and not in the form of memorandum.

25.

An appeal which has been presented to the Court shall, in the first instance, be given to the Stamp Reporter, who shall note on it whether it is properly stamped, within time and is admissible, and shall return it to office.

26.

When an appeal has been admitted, the Registrar shall send for the record, fix a date for hearing and cause notices to issue in the prescribed forms.

27.

As soon as the notices have been issued, and upon receipt of records the Registrar shall cause a paper-book to be prepared.

28.

The paper-book of Criminal Appeals and Government appeals shall consist of the following papers :
(i)first information report including the first information report in any counter case admitted in evidence on behalf of the defence;(ii)charge;(iii)statement recorded under Section 313 of the Code of Criminal Procedure in the trial Court;(iv)oral evidence excluding the deposition of formal witnesses such as constable entrusted with dead body challans;(v)Judgement under appeal;(vi)petition of appeal;(vii)post mortem report [* * *] [Deleted vide C.S.No. 30 (X-9/86 dated 5.9.1986).];(viii)test identification parade report, if any;(ix)injury certificates of accused persons and witnesses where the doctor concerned is not examined;(x)report of the Serologist;(xi)report of the Chemical Examiner;(xii)letters forwarding material objects for their examination and report as per serials (x)

and (xi); and(xiii)spot map :Provided that the parties shall not be precluded from referring at the time of hearing to any paper relevant to the case, on the sole ground of its non-inclusion in the paper-book.

29.

In the case of appeals by Government, paper-books need not be printed, but shall be prepared in type except under the orders of the Court or of the Registrar :Provided that in appeals against acquittal preferred by complainants under Section 378 of the Code of Criminal Procedure, the paper-book shall be prepared as in the case of regular Criminal Appeals.

30.

Jail appeals may be received by post. In such appeals, the Registrar shall cause a translation of the petition of appeal, if in a vernacular other than Oriya to be prepared and shall submit it with the copy of the Judgement or order appealed against to a Bench for orders.

31.

If the appeal is admitted it shall be dealt with in the manner prescribed for appeals which are filed in Court.

32.

When an appeal has been disposed of, the record shall be returned by the Bench Clerk to the Trial Clerk who, if the conviction has been set aside or a reduction or change made in the sentence, shall at once prepare a formal order in the prescribed forms without waiting for the Judgement, a copy of which shall subsequently be sent to the Court concerned. Note - In cases in which the sentences of imprisonment is confirmed or modified, the warrant of commitment to the Jail and bail bond, if any, shall invariably accompany the copy of the order.

33.

In the case of an appeal under Secs. 377 and 378 of the Code Criminal Procedure the Registrar shall ascertain whether the accused desires assistance, and if so, he shall assist him in the appointment of an Advocate on his behalf.(E)Criminal revisions, references and miscellaneous cases

34.

Records called for by the High Court under Section 397 or 401 of the Code of Criminal Procedure of received on transfer in pursuance of an order passed by the High Court under Section 402 (1) of the same Code shall be examined to see if they are in order. If there is any defect, the records shall be immediately sent back to the concerned lower Court for compliance of defects.

35.

If the records are in order or when they are received after compliance of defects, the Registrar shall cause a paper-book of the lower Court record to be prepared.

36.

The provisions of Part (D) of this Chapter shall apply, as far as possible to applications for revision :Provided that in every criminal revision preferred to the High Court under Sub-section (1) of Section 397 of the Code of Criminal Procedure the following certificate shall be appended at the foot of the revision petition :Certificate that no application under Sub-section (1) of the Section 397 of the Code of Criminal Procedure has or had been made to the Sessions Judge against the impugned order.

36A. [[Added vide C.S. No. 3 (X-1 dated 22.3.1984.)]

When a criminal revision is filed by private party against the Judgement and order of acquittal recorded in a case started by the State, the State shall be made party in such revision].

37.

The paper-book in cases of revision shall contain the petition for revision and the Judgement or order of which revision is applied for except that in cases failing under Section 401 of the Code of Criminal Procedure, the paper-book shall be prepared as in the case of an appeal.

38.

(1)The petitioner in every criminal revision in which the State is a party except cases failing under Section 401 of the Code of Criminal Procedure shall, within ten days of the admission, file second copies of the petition in revision and of the Judgement or orders of the lower Court or Courts. The copies shall be identical with the original revision petition and the copies of the judgements or orders filed with the petition. As soon as the second copies are filed the office shall supply the same to the Advocate-General.(2)The copies filed by the petitioner shall be legibly typed in double space on good paper failing which they shall be liable to be rejected by the office.

39.

The following matters may be registered as criminal miscellaneous cases :(i)Petition for transfer under Section 407 of the Code of Criminal Procedure;(ii)Petition for bail;(iii)Petition for leave to appeal against an order to acquittal.

40.

Except as provided by the rules of this Chapter no paper-book shall be prepared in any criminal revision, reference received under Section 395 of the Code of Criminal Procedure or miscellaneous case except under the orders of the Registrar.

41.

No paper-book in a criminal revision, reference received under Section 395 of the Code of Criminal Procedure or miscellaneous case shall be printed except under the orders of the Registrar.

42.

In every criminal revision, reference on miscellaneous case in which the record is received or called for, the trial Clerk shall immediately on receipt of such record, place the case before the Registrar for an order as to whether or not documents in any vernacular other than Oriya shall be translated before the case is submitted to the Court.

43.

(1)The petition in every criminal revision in which the State is a party except cases falling under Section 401 (6) of the Code of Criminal Procedure shall, within ten days of the admission, file second copies of the petition in revision and of the judgements or order of the lower Court or Courts. The copies shall be identical with the original revision petition and the copies of the judgements or orders filed with the petition. As soon as the second copies are filed the office shall supply the same to the Advocate-General.(2)The copies filed by the petitioner shall be legibly typed in double space on good paper; failing which they shall be liable to be rejected by the office.

44.

If a Judge upon a perusal of a sessions statement or upon examination of periodical returns orders -
(i)the record to be sent for, the Registrar shall send for the record and on receipt thereof shall submit it the Judge who passed the order;(ii)a rule to issue, the Registrar shall fix a day for hearing and shall cause notices to issue in the prescribed form;(iii)the record to be sent for and rule to issue, the Registrar shall fix a day for hearing shall issue notices in the prescribed form and send for the record;

45.

If upon any petition a Judge orders -
(i)the record to be sent for, the Registrar shall send for the record and submit it to the Judge who passed the order;(ii)a rule to issue, the Registrar shall fix a day for hearing and shall cause notices to issue in the prescribed form;(iii)the record to be sent for and a rule to issue, the Registrar shall fix a day for hearing, cause notices to issue in prescribed form

and send for the record.

46.

In the case of a revision under Section 397 or 401 or 40J : ' the Code of Criminal Procedure, 1973 when notice has been given to the accused to show cause why the order passed should not be set aside and a sentence of death should not be passed, the Registrar shall take steps to ascertain whether the accused has funds or not to employ his own Advocate and shall, if necessary, at the earliest, possible stage, obtain the orders of the Chief Justice for the appointment of an Advocate for the accused.

47. [* * *] [Deleted vide C. S. No. 58 (X-4/88 dated 29.11.1989)].

48.

Warrants of arrest whether bailable or non-bailable, warrants of commitment on sentence of imprisonment or fine, warrants for levy of fine by attachment and sale, warrants of attachment of immovable property and all other warrants and process in criminal matter shall be signed and issued under the signature of the Deputy Registrar unless otherwise directed by the Court.(F)Custody of records In criminal cases

49.

Immediately on receipt in the office of the Court of the record in a criminal case, the Dealing Assistant shall examine the condition of the cover and shall note on the record the date of its receipt, examine the same and make a note stating that the record is perfect or defective, as the case may be, and, if defective, the particular or particulars in which it is defective.

50.

If on such examination it is ascertained that any paper is missing from the record or is mutilate or that the record is in any other respect defective, the Dealing Assistant shall forthwith report the fact in writing to the Registrar.

51.

At the conclusion of any case brought before the Court in the exercise of its ordinary original criminal jurisdiction, the entire record of the committing Court, inclusive of such police papers as have been used at the trial and form part of the record, shall be consigned to the Criminal Record Room of the Court.

52.

At the conclusion of the case the Dealing Assistant shall satisfy himself that the entire record has been made over to him by the Bench Clerk and will be held responsible for its subsequent deposit in the Criminal Record Room.

53.

Articles received from lower Courts, such as sticks, stones, knives, bill-hooks, axes, guns, rags of clothing, earth, etc. and all articles of trifling value are ordinarily to be retained in the High Court and destroyed there. Any application for return of these articles (for return to parties or for reference in any other case) or of any article that the High Court has omitted to return shall be made within one month from the date on which the records of the case are received back in the lower Court.(G)Allowances to witnesses in original trials

54.

Payment of travelling and diet allowance to prosecutors and witnesses for the State attending the High Court in trials coming before it in its original criminal jurisdiction will be made by the Registrar (Clerk of the State) to whom such prosecutor and witnesses shall report themselves, on arrival at Cuttack.

55.

The prosecutors and the witnesses for the State shall be divided into two classes. The committing Magistrate shall carefully classify such persons according to their station in life, and shall inform the Registrar. The rates of payment of each class shall be as follows: Travelling expenses

1st Class	2nd Class
By road-Thirty-one paise per kilometre	... Bona fide expenses
By rail-1st class fare	... Ditto
Conveyance hire-Rs. 3 per diem	... Rs. 1.50 per diem.
Conveyance hire shall be paid only for the day of actual attendance at the Court.	

56.

Boarding allowance at Cuttack shall cease as soon as the means of quitting the station become available.

57.

The committing Magistrate shall report to the Registrar the date of departure of every such prosecutor and witness and shall instruct each to report himself as directed in Rule 53.

58.

In trials before the High Court in the exercise of its original criminal jurisdiction the expense of only those witnesses for the defence whom the presiding Judge may consider material will be paid out of public funds. Part - III Chapter-XIX Appeals to the Supreme Court Part-A-Civil 1. Subject to the provisions of the Supreme Court Rules, 1966, as amended from time to time, the provisions of Order XLV of the Code of Civil Procedure and these rules, so far as may be applicable, shall apply in relation to applications for a certificate to appeal to the Supreme Court under any provision of law including applications under Articles 132 (1), 133 (1) and 135 of the Constitution.

2. [to 9. * * *] [Deleted vide C. S. No. 28 (XII-11/85 dated 5.9.1986).]

10.

Immediately after grant of the certificate by the Court or on receipt of the order of the Supreme Court granting special leave to appeal the Deputy Registrar shall call for the records and others material papers from the Court below.

11.

On receipt of the order of the Supreme Court granting special leave to appeal, the Registrar shall cause it to be registered and after check up with regard to names etc., of the parties, the case shall be laid before the Court for orders.

12.

On receipt of the order and the copy of the petition of appeal from the Supreme Court, the Registrar shall -(i) cause notice of the lodgement of the petition of appeal to be served on the respondent in the manner prescribed in Rule 3. In case the respondent had not been represented at the hearing of the connected case by an Advocate notice of the lodgement of the petition of appeal shall be served on the respondent; (ii) as soon as notice as aforesaid is served, send a certificate as to the date or dates on which the said notice was served.

13.

(1) Where the proceedings from which appeal arises had, in this Court or in the Courts below, been in the English language, the Registrar shall, unless otherwise ordered by the Supreme Court, transmit to the Court at the expense of the appellant, the original record of the case including the

records of the Court below soon after the receipt from that Court of the copy of the petition of appeal.(2)Where the proceedings from which the appeal arises had, in this Court or in the Courts below, not been in the English language, the Registrar shall within six months from the date of the service on the respondent of the notice of the petition of appeal, transmit to the Supreme Court in triplicate, a transcript in English, of the record proper of the appeal to be laid before the Court, one copy of which shall be duly authenticated and no original record shall be transmitted until specifically requisitioned.Explanation - 'Record proper' means the complete collection of all documents which have been settled to be included in the paper-book in accordance with Rules 16, 17 and 18 of Order XV of the Supreme Court Rules, 1966.(3)The provisions of Rules 15 to 20 of Order XV of the Supreme Court Rules, 1966 shall apply mutatis mutandis when a transcript in English is to be prepared and transmitted under Sub-rule (2).(4)The provisions contained in Rules 15 to 20 of Order XV of the Supreme Court Rules, 1966 shall apply mutatis mutandis when the record itself is to be prepared under special direction of the Supreme Court under Rule 27 of Order XV of the Supreme Court Rules, 1966, under the supervision of the Registrar of this Court.(5)The list to be filed by the appellant under Rule 15 and the additional list to be filed by the respondent under Rule 16 of Order XV of the Supreme Court Rules shall be accompanied by a chalan showing deposit of Rs. 16 as estimating cost with the cashier of the Court. This amount shall be taken into account while preparing the estimate of costs to be paid by the appellant and the respondent under Rules 18 and 19 of Order XV of the Supreme Court Rules respectively.

14.

The following charges shall be estimated for and be payable in respect of the matters specified :

	Rs. P.
Estimate of costs	... 16.00
Translation for every 150 words or less	... 1.00
Preparation of the transcript in triplicate	The rates specified in Chapter XII, ... O.H.C. Rules.
Authenticating one copy of the transcript record, for every 8pages	... 1.00
Preparation of the index, for every 16 pages	... 1.00
Preparation of the list of omitted documents, for every paper	... 0.10
Checking fee per page	... 0.10
For transmission of the record to the Supreme Court	... According to existing postal railway rates.

Note - Where translation of a document cannot be made by the Translators of the Court because of difficulty of language, a Translator from outside may be engaged and his fees determined by the Registrar.

15.

(1) In case the record of a case is printed under the supervision of the Registrar of this Court, over and above the charges mentioned in Rule 16, printing charges shall be payable at the following rates :

	Rs. P.
Per printed page where not more than 70 copies are required	... 4.50
Per printed page for tabular matter exceeding one-tenth of the whole paper-book	... 5.50
Certifying one copy of the printed record, for every 8 pages	... 1.00

(2) Special charges for maps shall be realised according to their size, the size of the paper-book being taken as the unit of measurement and the rate shall be Rs. 4.50., a page. The page which is taken as the unit of measurement shall include the margins of the page, and a margin of one inch all round the printed matter shall be allowed to be included in the portions of the maps and plans to be paid for. When a whole map or plan occupies more than one page a person occupying space equivalent to half a page or more shall be charged for as for a full page and a portion of smaller size shall not be charged for at all. Where a whole map or plan is smaller than a page it shall be charged for as for a full page and where a map or plan occupies a diagonal on a rectangular paper leaving blank spaces on its two sides, the map or plan shall be taken as covering the whole of the rectangular paper with a margin of one inch all round it. Where maps contain colours an additional charge of 50 per centum shall be made irrespective of the number of colours used or the extent of the colouring.

16.

Where the appellant, fails to make the required deposit and the preparation of the record is suspended as required by Rule 23 of Order XV of the Supreme Court Rules, the default shall be reported to the Supreme Court and where the respondent defaults in depositing the requisite charges the documents may be excluded from the record and a note to that effect may be made in the index.

17.

In case the time for making any deposit fixed or granted under these rules expires during the vacation when the office remains open for the transaction of urgent business, the deposit shall be made on that day or the next following day when the office remains open for the transaction of urgent business.

18.

Where after preparation of the transcript or printing of the record for transmission to the Supreme Court, it is found that the amount deposited by either party is not sufficient to defray the cost of preparation or printing of his portion of the record, the Registrar shall call upon the party concerned to deposit the deficit cost within a time fixed by him but the transmission of the transcript or the

printed record to the Supreme Court shall not be withheld. A note, however, that there is deficit cost to be realised either from the appellant or the respondent, as the case may be, will be forwarded along with the transcript or printed record. If the party fails to deposit the deficit cost within the time allowed by the Registrar, the matter shall be reported to the Supreme Court and shall also be laid before this Court for necessary orders.

19.

The documents omitted from inclusion in the transcript or the printed record shall be enumerated in a type-written list to be transmitted with the record.

20.

Soon after the transmission of the record, the Deputy Registrar, if appointed as guardian for any minor respondent, shall write to the Supreme Court expressing his inability to act for the minor and seeking permission to retire from such guardianship. Intimation of his having done so shall be given to the appellant asking him to take steps in the Supreme Court for discharge of the guardian and for appointment of a new guardian of such minor in accordance with the rules of the Supreme Court. Notice will also be issued at the cost of the appellant to the natural guardian of the minor respondent informing him that the Deputy Registrar guardian has sought permission of the Supreme Court to retire from the guardianship of the said minor.

21.

All applications by or on behalf of a minor or a person of unsound mind shall be made in the name of the minor or person of unsound mind by the person whose name is on the record as his next friend or guardian, and whenever any application is consented to or opposed by a minor or person of unsound mind, the minor or person of unsound mind shall in like manner be represented by the person who appears on the record as his next friend or guardian.

22.

In case there is no next friend or guardian upon the record, a separate application for appointment of a next friend or guardian shall be made.

23.

When a party who has been successful in an appeal to the Supreme Court applies for a certificate of the costs incurred in the appeal in this Court, the Registrar shall, upon production of the order of the Supreme Court prepare such certificate and place it on the record of the Supreme Court appeal. A copy of the certificate may then be taken by the party in accordance with the rules of the Court.

24.

An information of the receipt of the certificate of taxation of the cost incurred by the parties in the Supreme Court shall be given to the Advocate of the parties without delay. Part - B Criminal

25. [[Deleted vide C. S. No. 29 (XII-11/85 dated 5.9.1986).]

* * *]

26. [] [Sub-rule (3) of Rule 26 re-numbered as Rule 26 vide C.S.No. 29 (XII-11/85 dated 5.9.1986).]

Where the certificate applied for is granted, a certified copy of the Judgement or order appeared against shall be supplied to the petitioner free of cost together with the certificate.

27.

On receipt of the copy of the petition of appeal from the Registrar of the Supreme Court the record of the lower Court if it has been returned, shall be called for. Five copies or more of the printed record, if available for despatch to the Supreme Court, shall be transmitted alongwith the entire original record including the record of the Courts below. One of such copies shall be duly authenticated by the Registrar of the High Court. In case only two copies of the High Court paper-books be available for despatch to the Supreme Court, they may be treated as transcript of record for the purpose of printing there. Only such of the additional documents as the parties choose to include for the hearing of the appeal there shall be typed in duplicate and be transmitted to that Court alongwith the High Court paper-books, one copy of which shall be duly authenticated. Explanation I - For the purpose of this rule the original record shall not include judgements of the High Court and the Court below, but only duly authenticated copies thereof. Explanation II - Printing for the purpose of this rule includes cyclostyling and typing and printed record includes cyclostyled or typed record.

28.

In appeals involving sentence of death and in such other cases in which there is a direction from the Supreme Court, the transcript shall be prepared and printed, if it is to be printed under the supervision of the Registrar of the High Court, at the expense of the State. In cases where the records are to be printed under orders of the Supreme Court under the supervision of the Registrar of the High Court at the cost of the parties, they will be printed in accordance with the rules contained in the First Scheduled to the Supreme Court Rules, 1966. Costs for preparation of the transcript of printing of the record shall be charged according to the rates prescribed in Part 'A' of the rules of this Chapter and realised from the appellant except for the papers which are included at the instance of the respondent and which the appellant is not bound to include in the paper-book. Costs of such paper shall be realised from the respondent.

29.

The record of the case for transmission to the Supreme Court shall, subject to special direction if any in a particular case, include the Judgement of the High Court, the certificate granted, if any, the copy of the petition of appeal received from the Supreme Court, the papers already printed or typed in the paper-book of the High Court stage, subject to the inclusion or exclusion of any paper in accordance with the list settled by the Registrar as per Rule 29.

30.

Where the paper-books are to be printed under the supervision of the Registrar of this Court under the order of the Supreme Court, twenty-five copies of the record shall ordinarily be printed unless otherwise ordered by the Supreme Court. Not less than fifteen copies of the same shall be transmitted to the supreme Court in cases where the appeals raises a question relating to the interpretation of the Constitution and not less than 10 copies in other cases.

31.

In cases where the records are to be printed in this Court, the same shall be made ready and transmitted to the Supreme Court within a period forty-five days from the receipt of the copy of the petition of appeal from the Registrar of the Supreme Court.

32.

Where the appellant fails to take necessary steps to have the record prepared and transmitted to the Supreme Court with due diligence, the Registrar of the High Court shall report the default to the Registrar of the Supreme Court.

33.

As soon as the record is transmitted, notice of the fact shall be given to the parties to the appeal either through Advocates concerned, or direct if unrepresented, and a certificate as to the date or dates on which the notice has been served shall be sent to the Registrar of the Supreme Court; and in case of death sentence, two copies of the paper-book, if it is printed here, shall be forwarded to the State Government.

34.

When after the disposal of a case, a formal order is received from the Supreme Court, a copy of the same shall be forwarded at once to the lower Court concerned for necessary action; provided that in a case where a sentence of death has been passed, confirmed or modified, copy of the formal order received from the Supreme Court shall be forwarded at once to the State Government for information or for such action as they may think fit to take, followed by a copy of the Judgement of

the Supreme Court as soon as it is received in this Court.

35.

In the case of a motion for bail, the appellant shall state whether any application for bail has been moved in the Supreme Court and, if so, with what result. Part - IV Chapter - XX Fees and costs (A) Process-fees

1.

The Rules of this chapter, framed by the High Court under Clause (i) of Section 20 of the Court-fee Act (VII of 1870), regulate the fees chargeable for serving and executing processes by the High Court.

2.

The fees in the following table shall be charged for serving and executing the several processes against which they are respectively ranged when issued by the High Court in its appellate jurisdiction;

		Rs. P.
Article 1 -	In every case in which personal or substituted service of any process on parties to the cause is required, where not more than four persons are to be served with the same document, one fee	4. 50
	When such person are more than four in number, then the fee above-mentioned, and additional fee of seventy-five paise for every such person in excess of four :	0. 75
Provided that in the last-mentioned case where such persons reside in the same or immediately adjacent villages, the additional fee may be such sum, not exceeding the amount of the fees prescribed as the High Court may, in the particular case, determine ; Provided also that in analogous cases, where the appellant is the same but the respondents are different, but residing in the same of immediately adjacent villages, the same rule shall apply.		
Article 2 -	In every case in which personal or substituted service of any process on any persons who are not parties is required, when the number of such persons is not more than four, one fee	4. 50
	When there are more than four such persons, then the fee above-mentioned for the first four, and an additional fee of seventy-five paise for every one in excess of that number	0. 75
Article 3 -	For the execution of a warrant for arrest of the person	4. 50

Article For service of execution of any process issued by the Court,not specified in any ... 4.50
4 - preceding article of this part

3.

Notwithstanding anything in the preceding rule, no fee shall be chargeable for serving or executing - (i) any process which may be issued by the Court of its own motion solely for the purpose of taking cognizance of and punishing any act done or word spoke in contempt of its authority; (ii) any process issued a second time in consequence of an adjournment made otherwise than at the instance of a party; (iii) any copy of summons, notice, order, proclamation of other process fixed up in a Court-house or in the office of a Collector; (iv) any order directing an Officer-in-charge of a Jail to detain or release a person committed to his custody.

4.

The fees hereinbefore provided shall be payable in advance at the time when the petition for service of execution is presented and shall be paid by means of Court-fee stamps affixed to the petition in addition to the stamps necessary for its own validity.

5.

In any district or part of a district when, in order to serve any process, the peon has to cross a ferry, the amount, if any legally payable as toll, shall be paid by the Court executing such process from its permanent advance.

6.

In cases in which the process is to be served in the jurisdiction of another Court the proper fee chargeable under Rules 1 and 2 shall be levied, in the manner above directed, on the application for the transmission of the process to that Court, and a note shall be made on the process stating that this has been done. A Court which receives from another Court, whether in the same State or not, a process bearing a certificate that the proper fee has been levied, shall cause it to be served without further charge

7.

Fees for processes to be issued by a Court to which a commission is addressed shall be payable at the rates chargeable for serving and executing processes issued by such Court.

8.

Except as hereinafter provided no fee paid in respect of a commission shall be refunded, if the order in respect of which the fee has been paid has been passed.

9.

When in consequence of a compromise or for some other reason it becomes unnecessary to serve or execute the summons, notice, warrant, proclamation, injunction or order, for which a fee has been paid, half the fee shall be refunded if the process has not been issued.

10.

The fees and charges paid in pursuance of these rules shall, unless otherwise provided by these rules, or unless a Judge or Judges otherwise order, be deemed and treated as part of the costs of the party who has paid them :Provided that no fees or charges which have been refunded, or in respect of which a party might, on application have obtained an order for a refund, shall be deemed to be costs within the meaning of this rule.

11.

The fee chargeable for serving or executing any process issued by the Court, in the exercise of its Matrimonial, Testamentary, and Intestate and Extraordinary Original Civil Jurisdiction shall be double the fee which would be charged in a District Court, under the rules for the time being in force for the service or execution of such process.(B)Other fees

12.

The following fees shall be charged on every application made in respect of the following matter and such fees shall be paid by means of Court-fees stamps affixed to such application :

	Rs. P
(1)	For every search in the offices record rooms, books, ... 1.00 or registers of the Court
(2)	On each application for a copy any document or record in the High Court, whether the copy applied for is of a single document or more documents than one ... 0.50.

Provided that this does not authorise an applicant to ask in a single application for copies of more than one paper, if required in more than one case. There must be a separate application and therefore a separate stamps, for each case.

	Rs. P
(3)	On each application for a ... 0.50

(4)	copy of judgement required by an approved representative of an approved Law Journal for the purpose of reporting For verifying any petition by solemn affirmation or on oath, or for swearing or affirming every affidavit intended to be used in the High Court	... 3.00
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Note 1- The Advocate-General, the Superintendent and Remembrancer of Legal Affairs and the Law Reporter to Government are exempted from payment of the searching fees referred to above. Note 2- Where the fee for swearing or affirming an affidavit has been levied, no fee shall be levied for filling the same, provided that this exemption shall not apply to the fee payable in original suits for filing documents annexed to affidavits.

(5)	For inspection of lower Court records received in connection with appeals and cases and disposed of High Court records -	Rs. P
(i)	If the application is by a party to the suit	... 1.00
(ii)	If the application is not by a party to the suit	... 5.00
(iii)	If the application is for immediate inspection by a party to the suit	... 5.00

Note- No fee shall be charged for inspection of criminal record.

(6)	For information	Rs. P
(i)	If the suit is pending	... 0.50
(ii)	If the case has been disposed of	... 1.00

(C) Costs

13.

Subject to the discretion of the High Court under special circumstances of each case, the following scale of costs shall, ordinarily, be allowed to the successful parties to appeal in High Court.(1)Appeals from original decrees

		Cost
Amount or value of the claims not exceeding Rs. 1,000.	Drawing grounds of appeal	Rs. 25
Hearing fee	Five percent on the valuation subject to a minimum of Rs.25	
Exceeding Rs. 1,000 and not exceeding Rs. 2,000.	Drawing grounds of appeals	Rs. 30
Hearing fee	Five per cent on the valuation.	
Exceeding Rs. 2,000 and not exceeding Rs. 5,000.	Drawing grounds of appeal	Rs. 40
Hearing fee	Five per cent on the valuation.	
Exceeding Rs. 5,000 and not exceeding Rs. 10,000.	Drawing grounds of appeal	Rs. 50
Hearing fee	Rs. 400	
Exceeding Rs. 10,000 and not exceeding Rs. 20,000.	Drawing grounds of appeal	Rs. 75
Hearing fee	Rs. 600	
Exceeding Rs. 20,000 and not exceeding Rs. 50,000.	Drawing grounds of appeal	Rs. 100
Hearing fee	Rs. 850	
Exceeding Rs. 50,000.	Drawing grounds of appeal	Rs. 150
Hearing fee	Plus ½ per cent on the excess over Rs. 50,000 subject to a maximum of Rs. 5,000 and subject to a minimum of Rs.3,000:	

Provided that in partition suit, for the purpose of assessment of hearing fee the valuation is to be considered on the claim of the appellants and on the jurisdiction value of the whole suit out of which the appeal arises.(2)Second appeals

Not exceeding Rs. 1,000.	Drawing grounds of appeal	Rs. 50
Hearing fee	Rs. 60	
Exceeding Rs. 1,000 and not exceeding Rs. 5,000.	Drawing grounds of appeal	Rs. 75
Hearing fee	Rs. 50 plus 2 ½ per cent of the amount of valuation in excess of Rs. 1,000.	

(3) Appeals from orders

Drawing grounds of appeal	Rs. 25
Hearing fee Rs. 32 (minimum) subject to maximum of Rs. 100:	
Provided that in appeals arising under the Arbitration Act, Hindu Religious Endowments Act and Orissa Act XVIII of 1948 where the valuation of the appeal does not exceed -	
Rs. 5,000	Minimum Rs. 50
...	Maximum Rs. 150
Where the valuation exceeds Rs. 5,000	Minimum Rs. 100
...	Maximum Rs. 500

If the Court does not expressly fix the hearing fee in the Judgement, the minimum indicated above shall be assessed.

(4) Revision

In Revision against order passed in a suit or proceeding value -

Not exceeding Rs. 1,000	... Rs. 50
Exceeding Rs. 1,000 and not exceeding Rs. 5,000	... Rs. 75
Exceeding Rs. 5,000 and not exceeding Rs. 10,000	... Rs. 100
Exceeding Rs. 10,000	... Rs. 150

(5) Review

Minimum ... Rs. 25

Maximum ... Rs. 100

If the Court does not expressly fix the hearing fee in the Judgement, the minimum fee indicated above shall be assessed. Appeal under Article 4 of the Orissa High Court Order, 1948, read with Clause 10 of the Letters Patent constituting the High Court of Judicature at Patna. The same as allowed in the previous hearing. (6) Application including matrimonial references (Where notice is given and opposite-party appears) To be fixed by Judge or Judges who hear the application subject to minimum of Rs. 25.

14.

In all decrees and orders a sum calculated at the rate of 5 per centum of the advocate's fees taxed, and subject to a minimum of Rs. 1, shall be taxed as cost on account of the fee of the Advocate's Clerk or Clerks. (D) General Rules

15.

When there are several parties to an appeal, review of applications, only one set of cost shall generally be awarded unless the Court, upon the application of the parties, shall otherwise order.

16.

In analogous second appeals, disposed of with costs, the hearing fee shall be assessed on the valuation of each appeal.

17.

In analogous civil revision disposed of with an order for costs-(a)When the hearing fee is fixed in the Judgement, that hearing fee shall be taken to be the fee for the entire batch and shall be divided equally in each case.(b)When no hearing fee is fixed in the Judgement, hearing fee shall be assessed on the valuation of each case.

18.

Unless a cross-appeal is filed, the hearing fee alone will be allowed to the respondent.

19.

In cases, where an appeal to the High Court from an appellate decree, an order of remand is passed, the Court-fee paid on the memorandum of appeal shall, ordinarily be treated as costs in the appeal. But where an order of remand is made under Order XLI, Rule 23 of the Code of Civil Procedure, on the ground that the Court of first instance disposed of the suit upon a preliminary point so as to exclude any evidence of fact which appears to the High Court essential to the determination of the rights of the parties and that such defect was not amended on First Appeal, or on the ground that the lower appellate Court has disposed of the suit or appeal on a preliminary point without investigating the suit on its merits, and such decision is reversed, the Registrar shall grant an order of refund of the Court-fees so said under Section 13 of the Court-fees Act, to the appellant on his application, provided that such application is made within three months of the date of the order remand. If such application is made after his period, the applicant shall be instructed to apply to the Court for orders.

20.

In case not provided for by these rules and in cases in which the subject-matter of the claim does not admit of a valuation, the Court shall fix a reasonable fee, regard being had to the time occupied in the preparation and hearing of the case and the nature of the questions raised.

21.

Notwithstanding the provisions of these rules, if having regard to the circumstances of the case, the Court considers the fee allowable inadequate, or excessive, it may, upon delivery of Judgement, fix a higher or a lower fee than that hereinbefore prescribed, or order that no fee be entered in the table of costs of a party.

22.

The words "amount or value of the claim" in these rules mean the value stated in the memorandum of appeal or application except in partition suits where it would mean the value of the relief claimed by the parties in the appeal. Note - Fractions of a rupee shall be omitted from the value of the claim calculation of fees.

23.

No sum in respect of fees shall be allowed or entered in the table of costs of a party in whose plaint, memorandum of appeal, petition or application the amount or value of the claim has been falsely or fraudulently stated.

24.

In any such case the Court may allow such sum as may, in its opinion, be reasonable to be entered in the table of costs of the opponent of the party in whose plaint, memorandum of appeal, petition, or application the amount or value of the claim has been fraudulently or falsely stated.

25.

In no case in which the relief is capable of valuation and the value of the claim has not, before the case comes on for hearing, been stated in the plaint memorandum of appeal, petition or application, shall any sum in respect of fees to the Advocate of the party, by or on whose behalf such plaint, memorandum of appeal, petition or application, was presented, be entered in such party's table of costs, but in such case the Judge or Judges, before whom such case is or was, may, at any time before the taxation of the costs, fix and allow such sum as may, in his or their opinion, be reasonable as the sum, to be entered in the table of costs of such party's opponent in respect of the fees for his Advocate.

26.

In an urgent application, on behalf of party, made during a vacation, by an Advocate not then already retained in the case, the fee shall be Rs. 34.

27.

If several defendants or respondents who have separate interests set up separate and distinct defences and succeed thereon, a fee for one Advocate for each of the defendants or respondents who appears by a separate Advocate may be allowed in respect of his separate interest. Such fee, if allowed, shall be calculated with reference to the value of the separate interest of such defendant or respondents.

28.

For each fee, allowed under the last preceding rule, the value of the stamp on one Vakalatnama only shall be awarded, as costs. Note - Rules 13 to 28 of this Chapter have been made applicable to Advocates by Rule 1 of the rules made under Section 14 of the Indian Bar Council Act, 1926 (XXXVIII of 1926), published under notification No. 65, dated the 9th December, 1930 in Part III, page 379 of the Bihar and Orissa Gazette, dated the 17th December, 1930.

29.

In original cases heard in the High Court where witnesses are examined and parties have to adduce oral and documentary evidence during the hearing the correspondent rules of the General Rules and Circular Orders (Civil), Volume-I are applicable mutatis mutandis to the costs of the respective parties.

30.

[The following scale of remuneration with liberty to fix a higher fee in suitable cases shall be allowed to the guardians- ad litem appointed by the Court -

- | | |
|--|----------------|
| (i) First Appeal | ... Rs. 110.00 |
| (ii) Suits and cases under the Original Jurisdiction | ... Rs. 110.00 |
| (iii) Civil Revisions, Second Appeals and Misc. Judicial Cases | ... Rs. 50.00] |

[Substituted vide C. S. No. 51 (X-9/87 dated 22.12.1987-w.e.f. 22.12.1987).] Part - V
Miscellaneous Chapter-XXI Information and copies

1.

The provision of [Part II, Chapter VI] [Substituted vide C. S. No. 19 (X-8/86 dated 22.8.1986).] shall apply, as far as possible, to application made under this Chapter.

2.

One searching fee shall be charged for any number of copies taken from the same record and included in the same application, and no searching fee shall be charged in respect of copies of paper which have not been deposited in the record-room.

3.

No fees will be required or paid for searching for, or copying papers required by public officers for public purposes.

4.

Advocates before making an examination of any record, shall pay the fee prescribed by Chapter XVIII Rule 12 (5), but no searching fee should be charged to Advocates for examining the records of pending cases.

5. [Substituted vide C. S. 20 (X-8/86 dated 22.8.1986).]

Copies shall be prepared at the following rates :

	Rs. P
(a) English	
Not exceeding 180 words	... 0.50
Exceeding 180 words and not exceeding 360 words	... 1.00
For every additional 150 words or less	... 0.50
(b) Vernacular	
Not exceeding 240 words	... 0.50
Exceeding 240 words and not exceeding 480 words	... 1.00
For every additional 240 words or less	... 0.50

6.

This charge shall be levied as follows :

(a) Vernacular	
Not exceeding 240 words ...	By means of an impressed stamped paper of 25paise with an adhesive stamp of 25 paise affixed thereto.
Exceeding 240 but not exceeding 480 words ...	By means of two impressed stamped paper of 25paise each with an adhesive stamp of Rs. 0.25 paise each affixed thereto.
For every additional 240 words or less ...	By means of an impressed stamped paper or 25paise with an adhesive stamp of 25 paise affixed thereto.
(b) Typed copies	
Not exceeding 180 words ...	By means of an impressed stamped paper of 25paise with an adhesive stamp of 25 paise affixed thereto.
Exceeding 180 but not exceeding 360 words ...	By means of an impressed stamped paper of 25paise with adhesive stamps of 75 paise affixed thereto.

Exceeding 360 but not exceeding 540 words	...	By means of two impressed stamped paper of 25paise each with one adhesive stamps of one 75 paise and one 25paise affixed thereto.
Exceeding 540 words but not exceeding 720 words	...	By means of two impressed stamp papers of 25paise each with adhesive stamp of the value of each 75 paiseaffixed thereto.
For 180 words or less	...	By means of an additional impressed stampedpaper or papers of 25 paise with an adhesive stamp of 25 paiseaffixed thereto.
(c) Expedition fee for urgent applications		
(1) For inspection and information	1.50	By means of Court-fee stamps be affixed to theapplication.
(2) For copies -		
Not exceeding 720 words	3.00	Ditto
(i) in English or 960 words in an Indianlanguage	0.75 paise for every 180 words in English or 240 words in anIndian language or part thereof	DittoNote - This calculation will be made on theaggregate number of folios covered by the same application:]
Exceeding 720 words in		
(ii) English or 960 words in an Indianlanguage		

[Provided that where the facility of taking out copy of means of a photocopier machine is available, the applicant intending to avail of the benefit may, in lieu of supplying the required impressed stamp papers, supply, for being affixed to the copy, adhesive stamps of the value thereof in addition to affixing the value of the photo-copy papers required to be used for drawal of copy at the rate of Rs. [0.65] [Added vide C. S. No. 42 (X-8/86/15.12.1986).] per sheet by way of adhesive stamp.]

6A. [] [Re-numbered vide C. S. No. 43 (X-8/86 dated 15.12.1986-w.e.f. 15.12.1986).]

[Certified copy by the Xerox process shall not be allowed of judgements and orders which are in manuscript from or in which the Judge concerned has indicated for not issuing certified copies by the Xerox process, in writing or by appending a mark such as "n-x", upon the document, unless permission of the Judge concerned is taken in that behalf.] [Inserted vide C. S. No. 22 (X-8/86 dated 22.8.1986).][Provided that where the Court desires to give the certified copy of an order/Judgement on an urgent application filed by any party before the Bench, the Secretary/P.A. concerned to that Hon'ble Bench, shall prepare the type copy of that order/Judgement and send it to Superintendent, Copying Section to prepare certified copy in the course of that day.] [Inserted vide C.S.No. 72 (X-5/2000, dated 28.2.2001).]

6B. [] [Re-numbered vide C. S. No. 43 (X-8/86 dated 15.12.1986-w.e.f. 15.12.1986).]

[An applicant requiring to have copy of any document drawn by means of a photo copier machine shall so indicate by putting the words "Xerox-Copy" on the top of the copy application form.]
[Inserted vide C. S. No. 22 (X-8/86 dated 22.8.1986).]

6C. [] [Re-numbered vide C. S. No. 43 (X-8/86 dated 15.12.1986-w.e.f. 15.12.1986).]

[The Assistant concerned on receiving application of supply of photo copy shall, after evaluation, collect from the applicant photo-copy-paper charges at the rate of 50 paise per sheet of paper by way of adhesive stamp in the manner indicated in the proviso to the preceding Rule 6 and indicate the adhesive stamp collected by him for the purpose, separately, on the cost of the application.]
[Substituted vide C. S. No. 44 to 46 (X-8/86 dated 15.12.1986).]

6D. [] [Re-numbered vide C. S. No. 43 (X-8/86 dated 15.12.1986-w.e.f. 15.12.1986).]

[The Assistant of the Copying Department in charge of receiving applications for supply of copies shall enter each application made for preparation of copy with the aid of the photo copier machine, chronologically, in a separate register in the following pro forma no sooner all the requisite are made available and thereafter, he shall take the original document alongwith the register and get the photo copy drawn by the operator in his presence and under his supervision. After drawal of the copy, he shall collect the original document as also all the copies thereof, drawn with the aid of the machine, from the said operator.] [Substituted vide C. S. No. 44 to 46 (X-8/86 dated 15.12.1986).] Register For Xerox Copy

Sl. No.	Name of applicant	Date of application	Nature of document of which copy is applied for and number of the case and year in which filed	
(1)	(2)	(3)	(4)	
	Number of pages of which Xerox copies to be prepared	Charges for preparation of the Xerox copies to be prepared	Signature of the assistant acknowledging thereceipt of the original document and the Xerox copy	Remarks
	(5)	(6)	(7)	(8)

6E. [] [Re-numbered vide C. S. No. 43 (X-8/86 dated 15.12.1986-w.e.f. 15.12.1986).]

[After the photo copies of the documents are received in the Copying Department immediate steps

shall be taken for certifying the copies after erasing the signature and seal of Hon'ble Judges or Presiding Officers of the subordinate Courts if available upon the photo copies.] [Substituted vide C. S. No. 44 to 46 (X-8/86 dated 15.12.1986).]

6F. [] [Re-numbered vide C. S. No. 43 (X-8/86 dated 15.12.1986-w.e.f. 15.12.1986).]

[The Assistant as also the Superintendent of the Copying Department shall draw daily total of the collections by way of adhesive stamps indicated in the register maintained under Rule 6-D and sign against the same in token of correctness of entries. The 2nd Additional Assistant Registrar shall inspect the register maintained under Rule 6-D once in a week] [Substituted vide C. S. No. 44 to 46 (X-8/86 dated 15.12.1986).]

6G. [] [Inserted vide C.S. No. 47 (X-8/86/15.12.1986).]

No charge will be levied in preparing the xerox copy of any document of the official use by the High Court establishment. However the account of the same, will be kept by the Xerox Operator.]

7.

A folio shall consist of [180] [Substituted vide C. S No. 23 (X-8/86/22.8.1986).] words in English or [240] [Substituted vide C. S No. 23 (X-8/86/22.8.1986).] words in vernacular, 4 figures counting as one word.

8.

In case of copies filed, exhibited or recorded in any Court, the Court-fee chargeable under the Court-fees Act should be believed by affixing the necessary stamp to the first folio of the copy.

9.

When an applicant requires copies to be furnished on the day of the application, an extra fee of one rupee (or if the copies exceed four folios of twenty-five paise for each folio) shall be charged on all copies so furnished, to be levied from him by a Court-fee stamp which should be affixed to the application for the copy and be entered in the register or Court-fee stamps.

10.

In the case of maps and plans, a charge shall be fixed by the Registrar with reference to the difficulty or intricacy of the work to be done.

11.

A plaintiff or a defendant who has appeared in the suit is entitled at any stage of the suit to obtain copies of the record of the suit including exhibits which have been put in and finally accepted by the Court as evidence.

12.

A stranger to the suit may, after decree, obtain, as of course, copies of the plaint, written statements, affidavits and petition filed in the suit; and may, for sufficient reason, shown to the satisfaction of the Registrar, obtain a copy of any such documents before decree.

13.

A stranger to the suit may also obtain, as of course, a copy of any Judgement, decree or order at any time after it has been passed or made.

14.

A stranger to the suit has no right to obtain copies of private documents except with the consent of the person by whom they are produced or his successor-in-interest. He may obtain copies of other documents in which he has an interest, including deposition for bona fide use in the Courts and case maps, at any time after they have been proved or completed.

15.

Every application for copy shall state whether or not, the persons applying is a party to the case from the record of which the copy is wanted. If such person is not a party or his Advocate's clerk the application shall state the object for which the copy is required.

16.

No copy of an ex parte interim order shall be granted to anybody but the lawyer appearing in the case or a party or a stranger, until requisite for service of notice regarding such order are filed.

17.

Copies of judgements convicting Government officer of criminal offences as well as copies of judgements of acquittal and orders of discharge will be supplied free of charge on the application of the Head of Department concerned.

18.

(i)After a Judgement has been dictated, the Judgement-writer concerned should obtain the order of the Judge or Judges, as the case may be, on a coloured slip (see From below) as to whether or not such Judgement is "Approved for Reporting".(ii)In all judgements marked "Approved for Reporting" an extra copy of the Judgement should be typed, except in death reference case where this extra copy will be prepared in the Copying Department.(iii)When a Judgement has been "Approved for Reporting", the Judgement-writer concerned should mark two carbon copies (the second and third impressed copies) of the Judgement in red ink with the letters "A.F.R." The copies so marked should be sent to the Bench Clerk concerned along with the other copies of the Judgement.(iv)The Bench Clerk should then send the second impressed copy marked "A.F.R." to the Official Law Reporter, and the other to the Disposal Section.(v)Copies of judgements other than those "Approved for Reporting" should be sent by the Bench Clerk to the Official Law Reporter.(vi)The Official Law Reporter is under no obligation to report all judgements marked "A.F.R." He may exercise his own discretion in this matter.(vii)Any Judgement not marked "A.F.R." may with the permission of the Judge or Judges concerned, be reported by the Official Law Reporter.(viii)The Official Law Reporter should take steps to ensure that no outsider has access to be copies of "A.F.R." judgements sent to his office.(ix)The Disposal Section should publish weekly a list of all judgements "Approved for Reporting" during the preceding week. This list should be exhibited on the Notice Board every Saturday morning.(x)A register of approved Law Journals, with the names of their authorised representatives, should be kept in the Disposal Section.(xi)Applications for copies of "A.F.R." judgements by the authorised representatives of approved Law Journals, should be made to the Deputy Registrar in the prescribed form.(xii)When such an application is made by the representative of an approved Law Journal, it should first be sent to the Disposal Section. The Disposal Section should, after verification send it, along with the copy of the Judgement marked "A.F.R." to the Inspection Room, where the authorised representative of an approved Law Journal will be allowed to type a copy of the Judgement.(xiii)The copy so prepared should bear the signature of an Assistant of the Disposal Section before whom the copy is prepared. A rubber stamp should also be affixed to such copy and till such stamp is had a note should be made to indicate that it has been issued for the purpose of reporting and for notes only, as the case may be.(xiv)The Disposal Section should preserve the copy of the Judgement marked "A.F.R." for one year after which it should be destroyed under orders of the Deputy Registrar.(xv)The Disposal Section should maintain a register showing : (1)Serial number;(2)The date of the application;(3)The date on which it was received in the Disposal Section;(4)The date of sending the paper to the Inspection Room;(5)The date of return to the Disposal Section.(xvi)The Disposal Section should send the copy of the Judgement marked "A.F.R." to the inspection Room not later than the day following the date of the application.(xvii)The form of the coloured slip referred to in para (1) should be as follows : "Court's order as to whether or not the Judgement is approved for reporting." Description of case No of 20.....A.F.R Yes No

19.

(1)Duly affiliated and approved representative of approved Law Journals may make copies of judgements free of charge : Provided -(a)that the judgements have been notified as "Approved for

Reporting";(b)that such copies are made by their own agents using their own type-writers and stationery in the presence of an Assistant of the Court; and(c)that all such copies are marked "For Reporting".(2)Application for making such copies shall be made within 15 days of the date on which the judgements have been notified as "Approved for Reporting".Note - For the fees to be charged on such application see Sub-rule (3) under Rule 12, Chapter XX Part IV.

20.

The Court may, in special cases, allow approved representative of any approved Law Journals to make copies of judgements, other than those specified in Rules 18 and 19 for the purpose of reporting or for publication of notes of cases. No case shall be reported without the previous sanction of the Judge or Judges who decided it and permission to report shall be sought by letter addressed to the Registrar alongwith a typed copy of the Judgement.Applications for making such copies shall be stamped, as provided in Sub-rule (3) of Rule 12, Chapter XVIII, Part IV and presented within 15 days from the date of Judgement, Copies shall be made by thier own agents, using their own type-writers and stationary.

21.

The approved representatives shall get a copy of Judgement prepared within three days from the date of expiry of the period prescribed for making application for copies failing which the application shall stand rejected; provided in suitable cases, the Deputy Registrar may, upon good cause being shown, extend the time of preparation of the copies.

22.

All applications for information or for copies other than those on which expedition fees are paid shall be made to the Deputy Registrar [between the hours of 10 a.m. and 11 a.m.] [Substituted vide C. S. No. 24 (X-8/86 dated 22.8.1986).]

23.

Application for information or copies shall be made in the described form which will be supplied at the price of five paise per sheet or 100 sheets for rupees four.

24.

When information applied for cannot be given at once, the Superintendent of the Copying Department shall inform the applicant when he may except to obtain it and shall note on the back on the cOunter-foil of the application "Told to attend for information of the ". The counter-foil shall then be returned to the applicant an it shall be his duty to attend at the time named.

25.

The applicant shall present his application with the duplicate spaces reserved for the date, his name and residence and the particulars of the information required, filled up. The office receiving such application shall enter in duplicate in the first column, the consecutive number, and in fifth column his signature. If he can furnish the information at once, he shall note the same on the upper portion of the form in the column for remarks, and make that part over to the applicant taking the later's receipt in the column for remarks in the lower portion, which will be retained and recorded in the office. If he cannot furnish the information at once, he will enter in duplicate in the fourth column of the form the date by which the information can be furnished. The upper and lower portions of the form, with Columns 1, 2, 3, 4 and 5 thus filled up, will then be separated. The lower part will be made over to the applicant with a direction to return with it at the time fixed. The upper portion will be passed on to the clerk to whose section it pertains, who will enter in the column for remarks the necessary information and return it to the receiving officer before the time prescribed. On the applicant's re-appearance this upper portion, bearing the information will be made over to him and the lower portion, bearing is dated receipt in the column for remarks will be taken from him and recorded in the office.

26.

Every application for a copy shall be numbered consecutively and shall be entered in the prescribed register. All such applications shall then be sent to the Superintendent of the Copying Department, who shall, at once, if possible, or during the same day, and not later than the following day, ascertain the amount of the Court-fee stamps payable for the copy asked for and the number of folios required for its preparation and shall inform the applicant thereof.

27.

On the day on which the application for a copy is received, it shall be forwarded by the Superintendent of the Copying Department to the proper office who shall assess the amount of Court-fee stamps and number of the folios required, enter the same in the form and then return the form to him not later than the day following.

28.

The Superintendent of the Copying Department on receiving back the form shall notify the required Court-fee stamps and the number of folios if not already filed alongwith the application.

29.

The application shall not be considered complete and the preparation of the copy shall not be commenced until the Court-fee stamps and the number of folios, stated to be required, are supplied in full.

30.

The date on which the stamps and folios are filed, shall be entered by the Superintendent of Copying Department in the place provided in the form for the purpose. He shall then forward a requisition for the document of which a copy is required to the proper officer who shall make over the same to him not later than the day following. The applicant shall, at the same time, present the counter-foil of his application, which has been returned to him and a memorandum shall be made thereon stating the date and hour when the copy will be ready. A corresponding note shall be made by the Superintendent of Copying Department on the body or main portion of the form, which, together with the original document of which a copy is applied for, shall then be made over by him to one of the copyists for the preparation of the copy. The applicant shall retain the counter-foil and it shall be his duty to attend on the date fixed for the purpose of receiving the copy.

31.

When the copy is delivered to the applicant, his signature and the date should be taken on the reverse of the application.

32.

Under ordinary circumstances a copy shall be furnished not later than 1 p.m. on the fifth day after the necessary Court-fees stamps and folios have been put in.

33.

Unused folios, if any, shall not be retained in the office, but shall be attached to the copy for the preparation of which they were filed and returned to the applicant together with a copy, receipt for both being taken. Should the applicant, in any case, fail to appear to claim either the copy or the unused folios, before the last day of the month succeeding that on which the copy was ready for deliver, they shall be destroyed.

34.

In any case in which a copy is refused or cannot be granted, the folios supplied by the applicant shall be returned to him when he is so informed.

35.

A copy shall bear the seal of the Court and shall be certified to be a true copy and be signed in full by the officer-in-charge of the Copying Department. In every case the certifying officer shall append to his signature the words "Authorised under Section 76, Act 1 of 1872."

36.

When a copy of a decree, Judgement or order is granted, the following particulars shall be recorded on the last sheet of the copy itself, and in the form given below for the information of the appellate Court :Date of application for the copy.....Date of notifying the requisite number of folios and stamps.....Date of delivery of the requisite folios and stamps.....Date on which the copy was ready for delivery.....Date of making over the copy to the applicant.....

37.

On the back of the last sheet of the copy shall be recorded the costs paid by the parties applying for copies in the form given below:

	Rs.	P.
Application for copy
Searching fee
Extra fee tor urgency
Folios
Other items, if any
Total

38.

In addition to the rules of this chapter, the remaining rules of [Part III, Chapter I] [Substituted vide C. S. No. 25 (X-8/86 dated 22.8.1986).] of the General Rules and Circular Orders, Civil, Volume I shall apply, as far as may be, to applications for copies and information in the High Court.

39.

The Judicial Indexer shall prepare an index of all the judgements passed by the Court and of the Judgement received from the Supreme Court and shall enter them in the index Register maintained for this purpose. This register may be inspected by any person on payment of a fee of Rs. 5 by means of Court-fee stamps affixed to an application which shall be filed before the Deputy Registrar, before 2 p.m. on any working day.

1.

When money is required to be paid or deposited in the office of the Court, it shall be accompanied by triplicate challans which shall be delivered to the Accountant of the Court. If the chalans are in order, the Accountant shall sign and return the three chalans to the person making the payment or deposit for presentation with the money to the Cashier of the Court. The Cashier shall thereupon receive the money, sign each chalan and send the chalans to the Accountant. The Accountant shall then enter the amount in his register of receipts, issue one copy of the chalan to the person making

the payment or deposit as a receipt for the money, send the second copy to the office to be filled with the record concerned and keep the third copy serially in a guard file. When the amount exceeds Rs. 500, the copy of the chalan intended as a receipt for the money shall be signed by the Deputy Registrar before it is issued. The Cashier shall remit the money, he has received to the Treasury with the Treasury Pass Book, after verification by the Deputy Registrar, or in his absence by the Officer-in-charge, on the next day on which the Treasury is open following the day of payment.

1A. [[Inserted vide C. S. No. 61 (X-1/91 dated 14.12.1991).]

In case of deposit made under Section 173 of the Motor Vehicles Act, 1988 the same procedure as in Rule 1 above shall be followed. The deposit in question may be diverted to a term deposit for one year in any Nationalised Bank if an order to that effect is obtained by the party concerned from the Court. The term deposit for one year may further be extended as and when directed by the Court.]

2.

No money paid into Court by way of deposit or otherwise shall be paid out of Court except under an order of a Judge or of the Registrar or in the absence of the Registrar, of the Deputy Registrar made upon an application in prescribed printed form for the payment of money.

3.

Every application for the payment of money out of Court shall be in writing and signed by the party claiming in his own right or in his capacity as personal legal representative or as guardian to be entitled to the money or by his recognized agent for the purpose unless he has already engaged an Advocate in the cause in which it shall be signed by such Advocate also :Provided that where the application is for payment of a sum not exceeding rupees one hundred only, the application may be signed by an Advocate duly authorised in that behalf.

4.

(1)The application shall state -(a)The name, description and address of the applicant claiming to be entitled to the money;(b)The capacity in which such applicant claims to be entitled to the money;(c)The cause, appeal, matter or proceeding which, or the date of the order under which, the money to which the application relates was paid into the Court and the date and number of the deposit; and(d)The precise amount for the payment of which an order is applied, for(2)When the applicant desires that the money shall be paid out of Court on his behalf to any other person, the application shall state in clear language that the applicant desires that the money may be paid out on his behalf to such other person shall state the name, description and address of such other person.

5.

The application shall be presented in person by the applicant claiming to be entitled to receive such money, or by an Advocate acting on behalf of the applicant, as the case may be, and in the former case, the application shall be signed by an Advocate immediately below the signature of the applicant in authentication of the signature of the applicant: Provided that when the sum to be refunded does not exceed Rs. 100 and is payable to the applicant he may -(a) add to the application a request that the amount due less postal commission, may be forwarded to his address by postal money order; (b) obtain on the application the counter-signature of a Judge, Munsif or Magistrate as to his identity; and (c) forward his application counter-signed as aforesaid, to the Registrar and, if the identity seems to be sufficiently established the amount, less postal commission, may, under orders of a Judge or of the Registrar, or the Deputy Registrar be sent to him by money order.

6.

The Judge, or the Registrar, or in the absence of the Registrar the Deputy Registrar, may pass an order on the application allowing or refusing payment of the amount, or may, before passing an order, issue notice to show cause to any person or persons : Provided that no order for payment shall be passed unless the application has been examined by the Accountant and bears his certificate in writing that there is no order in force stopping the payment of such money or any part thereof and stating the precise amount for the payment of which out of Court an order may be made.

7.

When an order for payment is passed a payment order shall be prepared by the Accountant and signed by the Deputy Registrar and when it is ready the fact shall be notified in a register to be kept for public inspection outside the Accountant's Office. The applicant or his Advocate, as the case may be, may then take delivery of the payment order from the Accountant after putting his signature on the counter-foil as a receipt. Payment orders shall remain in force for [one month] [Substituted vide C.S, No. 66 (X-3/93 dated 26.8.1993).] from the date they are issued and no payment after that period shall be made until the order is renewed.

8.

The Cashier is authorised to make payment in cash of a sum not exceeding Rs. 100. Before making payment the Cashier shall satisfy himself as to the identity of the payee and if the payee is not personally known to him he shall note in the register of pay order the name, description and address of the person by whom the payee has been identified to his satisfaction. Before making payment the Cashier shall take from the payee a receipt for the money duly stamped when a stamp is necessary. The Cashier shall enter all such payments in the register of pay orders.

9.

When any money has remained in Court for more than twelve calendar months after the time when an application for the payment thereof might have been made, the Accountant shall report the fact to the Registrar, who shall issue such notice as may be necessary that the money is ready to be paid out of Court. The expense, if any, of issuing such notice shall be charged to and defrayed out of the fund in Court.

10.

The Cashier shall keep a supply of saleable forms of which he shall remain an account. Payments for forms issued by him will be made in cash. The stock shall be verified every six months by the Deputy Registrar. The following are the saleable forms : (1) Application for copy; (2) Application for information; (3) Chalan for deposit of money; (4) Application for refund of deposit; (5) List of papers for the paper-book; and (6) Application for noting appearance and supply of paper-books. Note - For Forms under this rule (see Appendix -1).

11.

The account registers to be kept are as follows : (1) By the Accountant - (i) Register of deposits received (O.H.C. 164); (ii) Register of receipts (O.H.C. 169); (iii) Register of payment orders issued (O.H.C. 167); (iv) Register of repayments of deposits (O.H.C. 166); and (v) Ledger of security deposits (O.H.C. 389). (2) By the Cashier - (i) General Cash Book (O.H.C. 168); (ii) Pass Book (O.H.C. 391); (iii) Register of saleable Forms (O.H.C. 170); (iv) Register of payments made in Court (O.H.C. 392); and (v) Register of money orders received (O.H.C. 390). Note - For Forms under this rule (see Appendix-J).

12.

All the registers of the Cashier and of the Accountant shall be examined daily by the Deputy Registrar. The daily examination shall consist in comparing - (1) The guard file of chalans, the registers of deposits and receipts, the register of payments orders issued and the register of payments made in Court with the Cashier general cash book; and (2) The treasury Pass Book with the above. Chapter-XXIII Inspection of records and registers

1.

No record of any case shall be removed for the Court building except under an order in writing of a Judge or the Registrar; provided that if any Judge requires a record at his private residence he may take charge of it.

2.

No record or paper of any Department shall be inspected by any person other than a Judge or an officer of the Court except upon an order in writing of a Judge, the Registrar, Deputy Registrar or the other officer-in-charge.

3.

Any party to a suit appeal or other proceeding in the Court may apply for an order for inspection by himself in which case the party may be permitted to inspect the record or any paper in such suits, appeal or other proceeding alongwith his Advocates. Similarly, the Advocate appearing for any party may apply for an order for inspection of the record or any paper by himself.

4.

Every such applications shall be in writing in the prescribed form and shall specify the record or paper of which inspection is desired and the name of the person or persons by whom the inspection be made, and shall state whether the application is for ordinary or immediate inspections and be accompanied by the prescribed form. Forms of application for ordinary and immediate inspection will be supplied free of charge.

5.

Any other person may apply for an order for inspection of a record or paper in any suit, appeal or other proceeding in the office. Every such application shall be in writing and shall specify the records or paper which it is desired to inspect and shall clearly state the reason why the inspection of such record or paper is desired and shall be accompanied by the prescribed fee :Provided that when any public officer files such application for inspection of a record or paper in any suit, appeal or other proceeding for public purpose, the application need not be accompanied by the prescribed fee.

6.

Every application for inspection shall be made between the hours of 10.30 a.m. and noon on a Court working day.

7.

Any person named in an order for inspection may make such inspection between 11 a.m. and 3 p.m. on any day or days for which permission is given in such order.

8.

No such inspection shall be made except in the inspection room of the Department concerned and in the presence of the Superintendent of each Department.

9.

Superintendents shall keep Inspection Registers in the prescribed form and shall initial each entry made therein.

10.

Every order by which inspection is allowed shall state the name of the person or persons who may make such inspection.

11.

Every order for the inspection of a record or paper, if presented to the Record Keeper, or to the Superintendent of the Department concerned, but not otherwise, will entitle the person or persons named in such order to inspect the record or paper between the hours of 11 a.m. and 3 p.m. on any day within ten days from the date of the order. In case the inspection is not completed in the course of the day, it may be continued on subsequent day or days, if so ordered :Provided that in case of an order for immediate inspection the person or persons named in the order shall, before 1.30 p.m. of the day on which they derive to inspect give notice, in writing, on the order to the Record Keeper or the Superintendent of the Department concerned :Provided also that in the case of an order for ordinary inspection the person or persons named in the order shall give to the Record Keeper or to the Superintendent of the Department concerned 24-hour's notice in writing, on the order of the day on which they desired to inspect such paper.

12.

Immediately upon receipt of the notice given under the last preceding rule, the Superintendent shall send a requisition to the concerned dealing assistant of the Department in which the record or paper mentioned in the application is and such assistant shall make over such record or paper to the Superintendent by 10.30 a.m. on the date noted in the requisition, if the order be for ordinary inspection or at once if the order be for immediate inspection.

13.

No person inspecting a record or paper shall bring into the inspection room any pen or ink or make any mark on or in any respect mutilate any record or paper which is being inspected. No copy shall be taken of the record or paper inspected or any part of it.

14.

No person other than officials of the Department and the person named in an order for inspection shall be allowed into the inspection room.

15.

No one other than a Judge, the Registrar, Deputy Registrar or other officers shall be allowed to inspect any register of the Court or of the office except on an order in writing of the Registrar and in the presence of the officer whose duty it is to keep such register, provided that no other than a Judge or the Registrar shall be allowed to inspect any confidential register of the Court.

16.

The Superintendent shall every day return all records sent to the assistant from which he received them.

17.

If any such record is required on any subsequent day the Superintendent shall make a note to this effect and the assistant of the Department concerned shall make it over again to the Superintendent by 10.30 a.m on such day. Chapter - XXIV Facilities to be given to Press Reporters

1.

Deputy accredited and approved representatives of approved newspapers will be allowed seats in Court near the Bench, if they so desire, for the purpose of reporting proceeding.

2.

They can obtain copies only of such Court documents as can be obtained by strangers and they only on regular application under the rules and no payment of the prescribed fees.

3.

Such press representatives will be given the following special facilities for inspection of judgements only (not of records) : (a) They may inspect judgements in the inspection room upon a regular application for inspection in accordance with the rules of Chapter XXIII and on payment of the prescribed fees. Such applications will, however invariably be dealt with by the office as immediate, though the ordinary fee of Re. 1 payable by a party to the suit upon an ordinary application in accordance with Rule 12, Chapter XX will alone be charged. Such applications, moreover, will not be confined to the hours between 10.30 a.m. and noon but may be made between 10.30 a.m. and 3 p.m. on any Court working day. Moreover, the person named in an order for inspection may, in such

cases, make the inspection at any time between 10.30 a.m. and 4 p.m. The office will make special endeavors to see that applications for inspection of judgements are dealt with forthwith.(b)They will be allowed to inspect judgements in open Court just after delivery with the permission of the Judge and while he is on the Bench.

4.

No press representative will, in any circumstances, be allowed private access to ministerial officers of the Court; nor will he be allowed inspection of any Judgement until it has been revised and signed in the ordinary course, except by special permission of the Judge who delivered it, and upon such conditions with regard to verification of the notes taken as he may think fit to enjoin.

5.

The Court reserve the right to withdraw the special facilities from the representative of any newspaper or Law Journal in which inaccurate or misleading reports are found to appear.Chapter-XXV Preservation and destruction of civil and criminal recordsThe following rules have been prescribed by the High Court under Section 3 of Act V of 1917 with the confirmation of the State Government:

1.

Every record, unless otherwise provided, shall consist of two parts to be called respectively Part I and Part II. To Part I, there shall be prefixed a title page coloured white and Part II, a title page coloured blue.

2.

Part I – shall be preserved for ever and Part II for 3 years, after the expiry of which it shall be destroyed.

[* * *] [Proviso deleted vide C.S.No. 70 (X-12/86, dated 13.3.2000).]

3.

The time-limit mentioned in preceding rule shall be calculated from the date of the final decree or order, which, in cases of appeal to the Supreme Court will be that of the decree or order of Supreme Court respectively.

4.

All copies of paper-books in excess of the number to be preserved either permanently or for 3 years, as directed in these rules, shall be kept separate from the records to which they relate and be destroyed on the expiry of one year from the final decree or order of the High Court, or of the Supreme Court, as the case may be. Civil Records

5.

Part I – of the record every original Civil Case shall contain the following papers :

(i)The table of contents;(ii)The order-sheet;(iii)Preliminary decree, if any, preceded by the Judgement on which it is founded;(iv)The Judgement;(v)The final decree;(vi)The copy of the Judgement and decree in appeal;(vii)Plaint or application initiating the proceedings with any schedule;(viii)The written statement of the defendant or the counter petition;(ix)Memorandum of the issues;(x)Award of arbitrators or petitions of compromise, if given effect to in the decree; also the return or report and the map and field-book (if any) of a Commissioner in matter relating to immovable property if referred to or given effect to in the decree but not any portion of the evidence taken by such Commissioner also, in the case of minors or lunatics, any order of the Court sanctioning the compromise.(xi)Any paper whose preservation may be directed by the presiding Judge or Judges.

Part II – shall contain shall other papers

6.

Rule 5 shall apply, as far as possible, to all records of Original Matrimonial Cases, Testamentary and Interstate Cases, Admiralty cases of civil nature.

7.

Part I – every Civil Appeal shall contain the following papers;

(i)Table of contents;(ii)The Order-sheet;(iii)Remand order of the Court, if any;(iv)[* * *] [Deleted vide C.S.No. 70 (X-12/86, dated 13.3.2000).](v)Final Judgement of this Court;(vi)Decree;(vii)The memorandum of appeal;(viii)[* * *] [Deleted vide C.S.No. 70 (X-12/86, dated 13.3.2000).](ix)The memorandum of cross-objection;(x)Award of arbitrators or petitions of compromise, if given effect to in the decree; also in the case of minors or lunatics the order of the Court sanctioning the compromise;(xi)[* * *] [Deleted vide C.S.No. 70 (X-12/86, dated 13.3.2000).](xii)Any paper whose preservation may be directed by the Presiding Judge or Judges.

Part II – shall contain all other papers.

8. [[Substituted vide C.S.No. 70 (X-12/86, dated 13.3.2000).]

Judgements/orders in civil Appeals dismissed under Order XLI, Rule 11 of Letters Patent Appeals dismissed summarily and of cases dismissed for default or in which the plaint or memorandum of appeal has been rejected or returned, shall be included in Part I and Part II shall contain other Papers.]

9. [[Substituted vide C.S.No. 70 (X-12/86, dated 13.3.2000).]

Judgements and orders/order-sheets passed by this Court in applications giving rise to Civil Revision, Civil Review, Tax cases and M. J. C. shall be treated as Part I record, whereas the remaining papers shall be contained in Part II.]Criminal records

10.

Part I – of the records of Original Criminal Cases including Admiralty Cases (criminal jurisdiction) shall contain the following papers:

(i)The table of contents;(ii)The order-sheet;(iii)The charge;(iv)The plea of the accused, if any;(v)Order of the Presiding Judge;(vi)Warrant of the other paper returned on execution of sentence(vii)Copy of order commuting a sentence or suspending the executing ; thereof or remitting punishment.(viii)Any paper whose preservation may be directed by the presiding Judge or Judges.

Part II – shall contain two copies of the paper-book and all other papers.

11.

Part I – in Criminal Appeals, Revisions, References and Miscellaneous Cases shall contain the following papers :

(i)The table of contents;(ii)The order-sheet;(iii)The High Court judgment;(iv)[* * *] [Deleted vide C.S.No. 70 (X-12/86, dated 13.3.2000).](v)[* * *] [Deleted vide C.S.No. 70 (X-12/86, dated 13.3.2000).](vi)The explanation of lower Courts, if any;(vii)[* * *] [Deleted vide C.S.No. 70 (X-12/86, dated 13.3.2000).](viii)Any paper whose preservation may be directed by the Presiding Judge or Judges.

Part II – shall contain all other papers [including paper-books, two copies when printed and one copy when not printed.] [Added vide C.S.No. 70 (X-12/86, dated 13.3.2000).]

12.

[The order-sheets and index about the result of Criminal Appeals and Revisions which have been summarily dismissed shall be maintained in Part I and other papers including paper-books, two copies when printed and one copy when not printed shall be shown in Part II.] [Substituted vide C.S.No. 70 (X-12/86, dated 13.3.2000).]

13. [[Substituted vide C.S.No. 70 (X-12/86, dated 13.3.2000).]

Regarding application for bail and suspension of sentence and orders thereon, which are treated as Miscellaneous Case Part I shall contain Index indicating the date on which bail was granted or refused. Part II shall contain all other papers.]

14. [[Added vide C.S.No. 70 (X-12/86, dated 13.3.2000).]

The order-sheets and Judgement passed in writ cases besides writ applications and all affidavits filed by the parties relating thereto shall be included in Part I records. The other papers shall be included in Part II records.

15.

Notwithstanding anything contained in the foregoing rules, in Division Bench cases second copy of brief and in all types of cases, all Miscellaneous cases except relating to amendment of pleadings, intervention, addition of party, taking documents on subsequent events by way of additional evidence, substitution and setting aside abatement, if any, shall be destroyed after disposal of the case.]

16. [[Substituted vide C.S. No. 80 (O.G.No. 22 dated, 1.6.07).]

The destruction of all papers shall be carried into effect by the process of cutting with use of Shredder or by any other manner as the Court may direct. Such destructions shall be made in presence of the Superintendent-in-Charge of the Record Room of the Court under the supervision of the Assistant Registrar (Estt). of the Court.][Chapter - XXV-A] [Chapter XXV-A inserted vide C.S.No. 1 (XLIX-E-5/82 dated 8.2.1984);] Rules for the Classification, Preservation and Destruction of English correspondence and Registers on the Administrative side

1.

For the purpose of Classification, Preservation and Destruction the English correspondence and Registers will be divided into three classes, namely, 'A' 'B' and 'C' as per the list given below. All the letters and registers falling under the above three classes shall be marked 'A', 'B' and 'C' by hand or rubber stamp. The 'C' class letters when correspondence is closed be separated from the rest and tied up in a separate packet which should be kept with the packets of 'A' and 'B' letters of the same correspondence till the time of destruction arrives. 'A' class letters and registers shall be preserved for ever, the 'B' class letters and registers for 12 years and 'C' class letters and registers for 2 years.

2.

At the interval of every five years, a revision should be made of A; class correspondence and a report be submitted to the Registrar under whose orders the papers of no real permanent importance or Administrative interest should be destroyed. The Superintendent of the Record Room shall be primarily responsible for seeing that the correspondences are intelligently classified. If any doubt would arise regarding the nature of classification of any letter or register, the matter is to be referred to the Officer-in-charge of the section or when necessary to the Registrar of the Court.

3.

Each section on the Administrative side, in the first week of every month, shall consign the closed files and registers of the proceeding month to the Administrative Record Room with a list prepared in duplicate, out of which the original of the list will be retained in the Administrative Record Room and the duplicate copy is to be returned to the concerned section with the endorsement of the Assistant-in-charge of the Record Room acknowledging the receipt of the files and registers. The original lists of the closed files and records received in the Record Room from different sections should be preserved carefully in Guard files according to different years.

4.

The closed Files and Registers should be kept arranged in the Record Room separately yearwise according to different sections with a list hung to the rack showing the different files and registers kept in the rack.

5. Supply of files and registers.

- Files or registers shall be supplied from the Administrative Record Room only on requisition made in this behalf by the Assistants of different sections counter-signed by the Superintendent of the concerned section.

6.

The requisitioned files or registers shall be returned to the Administrative Record Room when the purpose for which the requisition was made is over. The requisition received for sending the file or register shall be kept in the place from which the concerned file or register is removed to be sent to the concerned section and the file or the register when received back in the Record Room will be replaced in its proper place and the requisition received for the same will be returned to the concerned section. A register is to be maintained in the Record Room in which the file or the register sent out of the Record Room on requisition has to be mentioned with date of its supply, name of the section to which supplied and the date when received back in the Record Room.

7.

The destruction of the correspondence and registers due for destruction, will be carried out every year in the month of April after obtaining appropriate order for the same from the Officer-in-charge of the Record Room. A brief memorandum must be made of this which must be signed by the Superintendent, Record Room and preserved permanently.

8. [[Substituted vide C.S. No. 80 (O.G.No. 22 dated, 1.6.07).]

The destruction of all papers shall be carried into effect by the process of cutting with use of Shredder or by any other manner as the Court may direct. Such destructions shall be made in presence of the Superintendent-in-Charge of the Record Room of the Court under the supervision of the Assistant Registrar (Estt.) of the Court.]Classification Of CorrespondenceClass-A

1. Note sheet of all the files containing notes, orders and minutes of the Judges except those relating to casual leave, permission to avail of holidays and vacation, which shall be preserved by 3 years.

2. Appointment and transfer of officers and staff of the Court.

3. Appointment and transfer of subordinate Judicial Officers.

4. Construction of extension of Court and residential building of the High Court and subordinate Courts.

5. All rules and general instructions issued by the Court.

6. All General Letters and Circular Letters issued by the Court.

7. All circular Letters received from the Government of India, State Government and Accountant-General, Orissa.

8. Pension of Judges.

9. Pension of the officers and staff of the Court and subordinate Judicial Officer till 3 years after their death provided the claim of heirs, if any, have been settled.

10. Dismissal, removal of officers, staff of the Court and subordinate Judicial Offices from service.

11. Establishment of Courts and creation of posts except the reminders (which shall be 'C' class papers).

12. Deputation and reversion of Judicial Officers except the reminders (which shall be 'C' class papers) B class.

13. Investment of powers under various Acts on the subordinate Judicial Officers.

14. Embezzlement.

15. Refunds and remissions.

16. House building, scooter and other advances till the full recovery is completed.

17. Transfer and acquisition of lands and buildings.

18. Service Books and history of service of officers and staff of the Court till three years of their death.

19. Such other correspondence which may be ordered to be preserved permanently in view of its importance.

20. Annual Administration Reports.

Class-B

- 1. Leave, sanction of G.P.F., car advance of the Judges.**
- 2. Earned Leave, Commuted Leave, sanction of G.P.F. and other advances to the officers and staff of the Court and subordinate Judicial Officers.**
- 3. Inspection notes of the High Court Judges and inspection reports submitted by the District Judges. Chief Judicial Magistrates, Tribunals in respect of their own office and offices of the subordinate officers.**
- 4. Purchase of Typewriters, furniture, carpets, electrical fittings and such other articles as may be decided by the officer-in-charge of Record Room.**
- 5. Misconduct and punishment except that of dismissal or removal of the officers, staff of the Court and subordinate Judicial Officers.**
- 6. Opinions on Acts, Bills, Rules, etc.**
- 7. Supply of books, publications, furniture and badges, etc.**
- 8. Appointment of Government Advocate, Pleaders Standing Counsel.**
- 9. Repairs to the Court building and residential quarters of the Judicial Officers and staff of the subordinate Courts.**
- 10. Papers relating to the installment of telephones.**
- 11. Papers relating to allegations made against the Judicial Officers.**
- 12. Correspondence relating to the framing of any rule, issue of General letters, circular letters and Standing Orders.**
- 13. Papers relating to the preparation of Law Reports and Judicial Index.**
- 14. Appeals and representation of the ministerial officers and Class IV servants of the subordinate Courts.**
- 15. High Court and Civil Court holidays.**

16. Budget Estimates and Revised Estimates.

17. Annual statements submitted by the subordinate Courts, (They shall be destroyed after they are compiled in the Annual Administration Reports).

18. Such other correspondence which are ordered to be treated as 'B' class papers.

Class-C

1. Application for casual leave of the officers, staff of the Court and District Judges.

2. Binding of books.

3. Purchase of rubber stamps.

4. Indent and supply of forms and stationaries.

5. Charge reports received from the subordinate officers.

6. Civil Lists.

7. Purchase of liveries for Class IV staff.

8. Reminders, memorandum to matters of trifling importance.

9. Correspondence regarding annual increments.

10. Correspondence regarding annual, quarterly and monthly statements.

11. Application from subordinate Judicial Officers to avail of vacation and to leave station.

12. Manuscripts, proofs, and all unimportant papers of all files.

13. All monthly statements.

14. Application for transfer.

15. quarterly returns both Civil and Criminal.

(They shall however be preserved till the Annual Administration Report and Annual statements are prepared and published).(The 'C class papers need not be sent to the Record Room and shall be destroyed after the period of preservation under orders of the officer-in-charge of the Department to which the papers relates to).Classification Of RegistersClass-A

1. Administrative Order Books.

2. Register containing service particulars of judicial Officers.

3. Index Register.

4. Registers showing the inspection of Courts of the subordinate Judicial Officers by the Hon'ble Judges, Inspecting District Judge, District Judges and Chief Judicial Magistrate.

5. Register showing communication of observation of the Court on the notes of inspection and receipt of compliance reports thereon.

6. Register showing allotment of funds for different projects.

7. Circulation Register maintained in the Diary Section.

8. Stock Book showing purchase of different articles.

9. Guard File of Notification.

10. Stock Register showing purchase of books for the Court Library.

11. Journal Register showing purchase of journals for the Court Library.

12. Issue Register showing issue of books to different Courts and residence of Hon'ble Judges.

13. Issue Register showing issue of books to different officers of the Court.

14. Cash Book.

15. Acquittance Roll for pay and other allowances.

16. Bill Registers for Pay, T. A., Contingencies and other advances and allowances.

17. Service Books and Pension papers.

18. Such other registers which are ordered to be preserved permanently.

Class-B

1. Register of letters issued.

2. Register of letters received.

3. Register of postage stamp.

4. Log Book in respect of Staff Car.

5. Daily out-turn Register of Typists and Copyists.

6. Register of different advances given to the offices and staff of the Court.

7. Such other registers which are ordered to be preserved for 12 years.

Class-C

1. Log Book maintained by Assistant of different Administrative sections.

2. Peon Book.

3. Casual leave Register.

Chapter-XXVI Mode of recording evidence in civil cases

1.

Upon the hearing of any suit or matter in Court or before a Judge, the evidence of each witness, examined, shall be taken down in English by or in the presence and under the Superintendent of the

Judge or one of the Judges. Such evidence shall be taken down ordinarily in narrative form when in long hand and in the form of question and answer, when in short-hand, by such officers of the Courts as may be appointed for the purpose.

2.

When evidence is taken down in short-hand the short-hand writer shall make a transcript thereof; shall sign both the short-hand note and the transcript, and shall certify that the former is a correct records of the evidence, and the letter is a correct transcript of the former. The short-hand note and the transcript shall form part of the record of the case.

3.

Exhibit marks on documents and material objects shall be written by the Peskar of the Court and signed by the Judge or one of the judges. Part - VI Chapter-XXVII Special rules

1.

In this Chapter 'case' includes appeal, application and petition.

2.

The District and Sessions Judges of Ganjam-Baudh, Sambalpur-Sundargarh, Bolangir-Kalahandi and Mayurbhanj, Keonjhar who are ex officio Registrars of the Court in respect of the merged State areas within their respective jurisdiction shall exercise the duties and powers enumerated in Rule 4 infra.

3.

Persons of the merged States area within the jurisdiction of the ex officio Registrar may, at their option, institute cases before the ex of do Registrar who may exercise of perform ail the powers specified in these rules.

4.

The duties and powers of ex officio Registrar are -(i) To receive an appeal from the decree or order of subordinate civil Court, or an application under Section 115 of Code of Civil Procedure or under Section 25 of the Provincial Small Cause Court Act. (ii) To dispose of all matters relating to Court-fees, oi to the service or notice of other processes in respect of cases before him. (iii) To receive an dispose and an application under Order XXII, Rules 2, 3, 4 or 10 and to amend the record, if necessary. (iv) To appoint or discharge a next friend or guardian ad litem of a minor or person of unsound mind and to amend the record accordingly. (v) To receive and dispose of an application under Chapter VI, Rules 2 to 7 and to amend the record if necessary. (vi) To receive an application for

the withdrawal of an appeal or a consent decree or order.(vii)To receive and dispose of an application under Order XLI, Rules, 5, 6, 8 and 10 pending for orders of the Court.(viii)To require any memorandum of appeal, petition, application or other proceeding before him to be amended in accordance with the procedure or practice of the Court.(ix)To call for records from subordinate Court.(x)To dispose of requisitions by subordinate Court for records and documents in respect of cases before him.(xi)To require any person or party to file an affidavit with respect to any application or matter in respect of which he has power to exercise any discretion or to make any order.(xii)To give leave to search the records of the Court under the rules in that behalf.(xiii)To dispose of all applications for copies of records whether presented by parties or by persons who are not parties to the proceedings to which such records relate.(xiv)To dispense with at his discretion the production of more than one copy of the Judgement, when two or more cases are tried together and decided by the same Judgement and two or more appeals are filed against such Judgement either by the same or different appellants, if he is satisfied that the questions for decision are analogous in each appeal.(xv)To allow time at his discretion for production of the copies of judgements when an appeal or application is not accompanied by the necessary copies of judgements. If copies are not produce within the time allowed, the appeal or application shall be laid before the Court for orders.(xvi)To admit application under Order XXII, Rule 9, Civil Procedure Code and issue notices :Provided that the ex officio Registrar may refer any matter under this rule to Court for orders.

5.

If upon appeal or application filed before the ex officio Registrar, which either directly or indirectly challenges a decree, order or sentence passed by him, the appellant or applicant desires that proceedings be stayed, the ex officio Registrar may either (1) stay proceedings including proceedings taken or to be taken for realisation of a fine, or (2) refuse the request for stay of such proceedings, in which he shall, if the appellant or applicant so desires, transmit the papers to the High Court for orders.

6.

The ex officio Registrar shall be the Taxing Officer of the Court and the Shirastadar of the District Judge's Court shall be the ex officio Stamp Reporter and the Registrar, Civil Courts shall be the Commissioner of affidavits for all cases filed before the ex officio Registrar.

7.

During the absence of the ex officio Registrar any memorandum of appeal or application which is ordinarily required to be presented to the ex officio Registrar may be presented to the Registrar, civil Courts. All memorandum of appeals and applications so received during the absence of the ex officio Registrar shall be submitted for orders to the ex officio Registrar on the next day when he sits in Court.

8.

The ex officio Registrar shall, as soon as the case is made ready for admission transmit the file to the High Court. Chapter-XXVIII Rules for execution of decrees Rules for the execution of decrees and executable orders passed by the High Court in exercise of the original jurisdiction including cases decided under Articles 226 and 227 of the constitution of India, under the provisions of the Indian Income-tax Act, the Orissa Sales Tax Act and other taxing statutes and the contempt cases.

1.

All applications for execution shall be presented before the Registrar. Such applications shall be in writing, signed and verified by the applicant and shall include, as far as practicable, the particulars mentioned in Rule 11 (2) of Order XXI of the Code of Civil Procedure.

2.

Every application shall, on presentation, be examined by the Stamp Reporter who shall certify thereon whether it is in due from within time and the Court-fee paid thereon is correct.

3.

The fee chargeable for serving or executing any process shall be, as laid down in Rule 2 of Part IV, Chapter XVIII : Provided that the decree-holder shall deposit a sum of Rs. 25 where possession of attachment of property by actual seizure is issued and such sum as may be fixed by the Court where process is issued for executing the decree by the arrest and detention in the civil prison or a Judgement-debtor.

4.

The decree-holder shall, in addition to the Court-fee stamp for the service of process file the requisite number of the printed forms for the issue of process on the Judgement-debtor. He should also serve a copy of the application on the Advocate for the Judgement-debtor, if any, appearing in the original proceeding and file a receipt thereof.

5.

All process issued from Court shall, ordinarily, be served or executed through the Munsif within whose jurisdiction, the person to be served, or the property in question is situate.

6.

On receipt of the notice under Rule 4, the Judgement-debtor or his Advocate shall, within such time as may be fixed by the Court pay to the decree-holder or deposit in Court, the amount due under

execution.

7.

(i) If such payment is not made within the time fixed, the Registrar shall proceed to realise the amount in accordance with the provisions of Order XXI of the Code of Civil Procedure and the said provisions shall apply mutatis mutandis to the application filed under this Chapter : Provided that, whenever possible, the Registrar shall in the first instance, proceed to realise the amount by arrest and detention, in the civil prison, of the Judgement-debtor as provided in Rules 37, 38, 39 and 40 of Order XXI of the Code. (ii) For the purpose of such execution, the Registrar shall be deemed to be the Court which passed the decree or order, as the case may be. (iii) An appeal shall lie to a Division Bench of the Court against an order of the Registrar passed under Sub-rule (3) of Rule 40 of Order XXI of the Code of Civil Procedure or any other order which under the law is appealable.

8.

The Advocate's fee shall ordinarily be Rs. 32 in the execution applications filed under this Chapter.