

Rules Under the Court-Fees Act, 1870

MADHYA PRADESH

India

Rules Under the Court-Fees Act, 1870

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Rules Under the Court-Fees Act, 1870[Notification No. 10434.] [Published in M.P. Rajpatra, dated 13-12-1963 at pages 873 to 884.] - In exercise of the powers conferred by Section 20 of the Court-Fees Act (VII of 1870) and with the previous approval of the State Government in respect of Rules 418 to 421 and of powers conferred by Article 227 of the Constitution and Section 23 of the Madhya Pradesh Civil Courts Act, 1958, and all other powers enabling and with the approval of the Governor as regards Rules 422 to 439, the High Court has made the following rules, in supersession of all existing rules relating to fees chargeable for serving and executing processes-

Part IV – Fees and Costs Including the Rules and Orders Under the Court-Fees Act

[Chapter XX] [Published in M.P. Rajpatra, dated 13-12-1963 at pages 873 to 884.] Rules under the Court-fees Act relating to fees chargeable for serving and executing processes, remissions, cancellation of stamps etc.

1. Process-Fees

418.

(1)This and the succeeding three rules have been made by the High Court under Section 20, Court-Fees Act, 1870. The fees shown in the following schedule shall be charged for serving and executing the different processes-

of Process-fees

Article 1In suits triable by a Court of Small Causes and in all other suits and proceedings, including execution proceedings, if any Court, including a Revenue Court.

Name of Process Amount leviable

Not exceeding Rs. 500 in value	Exceeding Rs. 500 but not exceeding Rs. 1000 in value		
(1)	(2)	(3)	
(a)	For personal or substituted service, in respect of each person.	Rs. nP.1.00	Rs. nP.1.25
(b)	For service of warrant of arrest, in respect of each person.	2.00	2.50
(c)	For attachment of movable property, in respect of each process.	2.00	2.50
(d)	For attachment of immovable property under Order XXI, Rule 54, Civil Procedure Code.	3.00	3.00
(e)	For a proclamation of sale under Order XXI, Rule 66-(i) when the property to be sold is movable property; (ii) when the property to be sold is immovable property.	2.00 3.00	2.50 3.50
(f)	For a warrant for delivery of immovable property	2.50	3.00
(g)	For any process not specifically provided for.	1.00	1.25

Article 2 In suits and in all proceedings, including execution proceedings, of any Court.

Name of Process Amount Leviable

Exceeding Rs. 1000 but not exceeding Rs. 5000 in value	Exceeding Rs. 5000 but not exceeding Rs. 10000 in value	Exceeding Rs. 10,000 in value		
(1)	(2)	(3)	(4)	
(a)	For personal or substituted service, in respect of each person.	Rs. nP1.50	Rs. nP2.00	Rs. nP2.50
(b)	For service of warrant of arrest, in respect of each person.	3.00	3.50	4.00
(c)	For attachment of movable property, in respect of each process.	3.00	3.50	4.00
(d)	For attachment of immovable property under Order XXI, Rule 54, Civil Procedure Code.	4.00	4.50	5.00
(e)	For a proclamation of sale under Order XXI, Rule 66-(i) When the property to be sold is movable property. (ii) When the property to be sold is immovable property.	3.00 4.00	3.50 4.50	4.00 5.00
(f)	For a warrant for delivery of immovable property.	4.00	5.00	5.50
(g)	For any process not specifically provided for.	1.50	2.00	2.50

Note 1. When personal or substituted service on several persons residing in the same village or in the same ward of a municipality or cantonment is required, and the processes are applied for at the same time, for each person after the first-75 nP., irrespective of the value of the suit or proceedings. Note 2. Where the property to be attached lies in different villages or different wards of a municipality or cantonment, separate processes shall be issued and charged for in respect of each village or wards. (2) The process-fee in contested applications for probate and letters of administration and applications for the revocation of probate and letters of administration which are registered as suits, shall be according to the value of the property in dispute. (3) Process-fees in cases not otherwise provided for shall be according to the scale prescribed for suits not exceeding Rs. 500 in value. (4) The process-fee in appeals and revisions shall be the same as in the original cases, including concessional fee for service on several persons; except that in appeals and revisions before the High Court the minimum rate of fee shall be Rs. 2 for each process.

419.

Any party desiring the services of a process- server for the service of a process otherwise than in the manner and at the time of such process would normally be issued, or requiring such service for a time beyond the period which would ordinarily suffice for service and execution shall, unless the Court by order in writing otherwise directs, pay an additional fee of one rupee per diem for the time that the services are so required. In calculating this fee one day should be allowed for service of the process and one day for each twelve miles of the journey going to and returning from the place of service, unless the person requiring the services satisfies the Nazir or official concerned that he will pay the conveyance charge of the server, in which case only one day shall be allowed for the journey to and one day for the journey from the place of service.

420.

Notwithstanding Rule 418 foregoing no fee shall be charged for serving or executing-(a) any process which may be issued by any Court of its own motion, solely for the purpose of taking cognizance of and punishing any act done or words spoken in contempt of its authority; (b) any process issued a second time in consequence of a mistake for which the Court or any of its officers is responsible, or in consequence of an adjournment made otherwise than at the instance of a party; (c) any copy of summons, notice, order, proclamation or other process affixed in court-house or in any other Government office; (d) any copy of warrant, order or certificate affixed under Order XXI, Rule 36, 54 or 96 when the fees chargeable under Article 1 (d) or (f) of Rule 418 (1) foregoing have been paid; (e) any notice issued by a Court under Order XXI, Rule 2, in relation to an award made in the course of conciliation proceedings held with the sanction of the State Government; (f) any process issued at the instance of the Collector by the Civil Court in proceedings under Section 25 of the Central Provinces Land Alienation Act, II of 1916.

421.

In respect of sales, a fee by way of poundage shall be charged upon the full amount of purchase money as follows-(i) Where the sale relates to an interest in land used for agricultural purposes or of

houses or other immovable property connected with such land or interest and used for agriculture purposes-On the first Rs. 1,000, at 5 percent.On the next Rs. 4,000 at 3 ½ percent.On the rest, at 2 percent.(ii)Where the sale relates to other property-(a)If the property be a negotiable instrument or a share in any public company or corporation, on the nominal value-1 percent on the first Rs. 1,000 and ½ percent on the rest.(b)In the case of other property-5 percent on the sale proceeds :Provided that no poundage fee shall be charged-(i)in respect of sales by a Receiver in insolvency matters, and(ii)in respect of property sold in execution of a decree by a liquidator appointed under Section 70 (1) of the Madhya Pradesh Co-operative Societies Act, 1960, when the property is purchased by the Co-operative Central Bank holding the decree.

422.

The mode of payment of process fees under Rules 418 and 419 is laid down in Rule 46 foregoing. No process for issue of which payment of a fee is required, shall be drawn up for service or execution until the fee has been paid. A notice in English and the Court language of the district shall be exhibited in a prominent place in every Court stating that all process-fees are to be paid in Court-fee stamps and not in cash.

423.

On receipt of an application or memorandum referred to in Rule 46, the process-writer shall see that the proper fee has been paid and shall punch the stamps before drawing up the process and sending it with the application or memorandum to the Nazir for execution. The Nazir shall again see that the requisite stamps have been affixed and punched, and shall himself punch them with a distinctive punch. After issuing the process he shall return the application or memorandum to the Court for being filed with the record.

424.

When a Court sends a process for service or execution to any Court in India, the fees shall be levied in stamps in accordance with the rates prescribed in Rule 418 and the Court shall certify on the face of the process or on the order for transmission of the process that the fee has been levied.

425.

A process issued by any Court in India shall be served and executed free of charge by any Court to which it may be sent, if it be certified on the process that the proper fee has been levied.

426.

(1)The fee payable by way of poundage on the full amount of the purchase money shall be paid by stamps, which shall be affixed to the first application, or memorandum referred to in Note 1 below Rule 466 (5), for payment of such purchase money out of Court, whether it be or be not filed by the

person who obtained the order of sale, and whether it extends or does not extend to the whole of the purchase-money. If an application be filed, it must, in addition to the requisite stamps for the poundage fee, bear such stamps, if any, as are needed for its own validity.(2)The party paying the poundage fee shall recover the amount of it out of the purchase money prior to the distribution of the purchase money among the persons who are entitled to it.

427.

When an application or memorandum for payment of purchase money is filed, the Reader or Execution Clerk, after obtaining from the Nazir a report that the sum is in Civil Court deposit, shall see that poundage fee has been correctly paid by stamps affixed to the application or memorandum and that an application, if filed, bears the stamps requisite for its own validity, and shall thereupon punch the stamps. The fee shall be entered in the Register of Processes and Process-fee, by the process-writer who shall then endorse on the application or memorandum a report slating that this entry has been made and giving the number of the connected warrant of sale. If the Court orders payment, the Reader or the Execution Clerk shall prepare the necessary voucher and note on the reverse of the inner foil thereof the date on which the payment of the poundage fee was entered in the Register of Processes and Process-fees. [Also see Rule 466 (5).]

428.

All process-fees and fees paid by the way of poundage shall, in all proceedings, be deemed and treated as part of the necessary and proper costs of the party who pays them.

429.

The Judge of each Court shall see that the rules regarding process-fees are observed and though he may not be able to examine all records, he shall make it a rule to examine some of them from time to time with a view to see that the proper process-fee stamps have been affixed and that they have been properly cancelled.

430.

The postage charges on all process required to be transmitted by post, together with the registration fee, if the postal packet is required to be registered, should be paid by the Court by means of service postage stamps without any additional charge being levied for the same from the parties at whose instance the process is issued.Rules for Criminal Courts[From Rules and Orders Criminal]Rules 545-549 Criminal ManualA. - Court-fees Payable on Complaints

545.

(1)Under Article 1 (b) of Schedule II of the Court-Fees Act, 1870 (IX of 1870), a fee of [two rupees] [Substituted by M.P. 12 of 1966.] is leviable on petition or application containing a complaint or

charge of any offences other than an offence for which police officers may under the Code of Criminal Procedure, 1898, arrest without warrant when presented to a Criminal Court.(2)Under Section 18 of the Court-fees Act a fee of eight annas is to be levied, unless the Court thinks fit to remit the payment, when a person is examined on a complaint and-(a)a previous petition with Court-fee has not already been presented, and(b)the offence complained of is a non-cognizable one, or(c)the offence is wrongful restraint or wrongful confinement.(3)No fee is leviable under Article 1 (b) of Schedule II of the Court-fees Act on a complaint of any cognizable offence. No fee is leviable under Section 18 of the Court-fees Act in respect of a complaint of any cognizable offence other than wrongful restraint or wrongful confinement.B. - Process-feesRules under Section 20 (ii) of the Court-fees Act

546.

The following rules have been made under Section 20 (ii) of the Court-fees Act-(1)The fees hereinafter mentioned shall be chargeable for serving and executing process issued by Criminal Courts in the case of offences other than offences for which police officers may arrest without a warrant-(1)For the issue of a summons to an accused person or witness, or for the issue of a notice to the opposite party in an appeal of revision, in respect of each person Re. 0-12-0.(2)For the issue of a warrant of arrest in respect of each person- Rs. 2-0-0.(3)In respect of proclamation for an absconding person under Section 87 of the Code of Criminal Procedure, 1898 - Rs. 2-0-0.(4)For warrant of attachment, in respect of each person- Rs. 1-8-0.(5)In cases where an application is made by a complainant for the recovery of fees ordered to be repaid under Section 31 of the Court-fees Act, 1870, or of fees ordered to be paid under Section 546-A of the Code of Criminal Procedure, or of compensation granted under Section 545 of the Code of Criminal Procedure, 1898 or by an accused person for the recovery of compensation awarded to him under Section 250 of the Code of Criminal Procedure, 1898;For the issue of a warrant for the levy of fees, fines or compensation-Re. 1-0-0.(6)Notice injunction or any other process not otherwise provided for-Rs. 1-8-0.(2)No fees shall be chargeable for any process issued upon the complaint or application of any public officer as defined in Section 2 of the Code of Civil Procedure, 1908, when acting as such public officer, or of any railway servant as defined in Section 3 of the Railways Act, 1890 when acting as such railway servant.This exemption shall not, however, apply to cases instituted on complaint by a police officer authorized under the Central Provinces and Berar Municipalities Act, 1922 (II of 1922), or rules or bye-laws made thereunder.(3)No fee shall be chargeable for any process to compel the appearance of a witness recalled for cross-examination under the provisions of Section 256 of the Code of Criminal Procedure.(4)The presiding officer of the Court may remit in whole or in part any fee chargeable under sub-rule (1) of these rules whenever he is satisfied that the person applying for the issue of the process is unable to pay such fee.

547.

Process-fee must be paid in court-fee stamps and not in cash. The stamps shall be affixed to an application or memorandum, as is appropriate filed in Court. The application or memorandum should include the description of the Court, the number of the case, the section and the Act under which the offence is punishable, the value of the Court-fee stamps affixed, details of the processes to

be issued and full particulars and addresses of the persons on whom the processes are to be served. If an application is filed it must in addition to the requisite stamps for the process-fees bear such stamps as are necessary for its own validity. No process for the issue of which payment of a fee is required shall be drawn up until the fee has been paid. Note. - Courts appear to find difficulty in dealing with the filing of applications and the Court-fees payable on them. The general rule is that an application or petition to a Criminal Court, unless otherwise provided, requires a Court fee stamp under Article 1 Schedule II of the Court fees Act. For certain purposes the Code of Criminal Procedure requires an application to the Court precedent to action being taken. For other purposes the presiding officer may require an application to be filed. On other cases an application is neither necessary nor compellable and the Court is required to proceed of its own month. It is the duty of the presiding officer to see that applications are filed where necessary, i.e. when the Code requires an application and that all applications which require Court-fee stamps are properly stamped. The principle may be explained by reference to the two following examples-(1)Section 244 (2) of the Code provides that a Magistrate trying a summons case may on the application of the complainant or accused issue summons to a witness. For this purpose therefore it is necessary to require an application. Such an application would require to be stamped under Article 1 of Schedule II of the Court-fee Act unless it were an application of the type referred to in clause (xiv) of Section 19 of the Court-fees Act.(2)Section 252 (2) of the Code provides that in trying a warrant case the Magistrate shall ascertain the names of persons likely to be acquainted with the facts of the case and shall summons such as he deems necessary. In such a case therefore the Magistrate cannot compel the filing of an application praying for the summoning of witnesses. If, however, the complainant elects to file an application for this purposes the Magistrate must see that it is properly stamped.

548.

No fee can be charged for the issue of process in a cognizable case whether instituted on complaint or not. The question whether fees are chargeable in any particular case should be determined by the Magistrate with reference to the section of the Indian Penal Code or other law relating to the offence in respect of which he directs process to issue, whatever the section or law may be that is quoted in the complaint.

549.

A table in English and in the language of the Court showing the fees chargeable for the issue of processes and stating that process-fees are to be paid in Court-fee stamps and not in cash shall be exhibited in a conspicuous part of each Court-room. Remissions of Court-fees made by the provincial Government under Section 35 of the Court-fees Act.[Rules Under Section 27] [Extract from Notification of the High Court which was published in M.P. Rajpatra, dated 13-12-1963 at pages 873-884.]Use of Adhesive and Impressed Stamps

432.

The following instructions on the use of adhesive and impressed stamps issued under the Judicial Department Notification No. 1823-1428-XIX, dated the 10th October, 1941, are reproduced for the

information and guidance of the Judges-(1)When, in the case of fee amounting to less than Rs. 25 the amount can be denoted by a single adhesive stamp of the required value. If the amount cannot be denoted by a single adhesive stamp or if a single adhesive stamp of the required value is not available, a stamp of next lower value available shall be used, and the deficiency shall be made up by the use of one or more additional adhesive stamps to make up the required amount of the fee. These additional stamps should also conform to the principle that a stamp of next lower value shall be used in preference to stamps of smaller value.(2)In the case of fee amounting to or exceeding Rs. 25 the fee shall, if possible, be denoted by a single impressed stamp of the required value. If the amount cannot be so denoted or if a single impressed stamp of the required value is not available, an impressed stamp of the next lower value available shall be used, and the deficiency shall be made up by the use of one or more additional impressed and adhesive stamps to make up the required amount of the fee. These additional stamps should also conform to the principle that a stamp of next lower value shall be used in preference to stamps of smaller value.(3)If a stamp of a particular value which should be used under Rules (1) and (2), if not available at the nearest treasury or sub-treasury or from the nearest vendor authorised to sell stamps of that value, the required value may be made up by the use of two or more stamps available at such treasury or sub-treasury or from such vendor, a stamp of the next lower value available being used in preference to stamps of smaller value. In every such case, a certificate stating the value and number of the stamps required but not available shall be given the treasury officer or sub-treasury officer or vendor, as the case may be.(4)Whenever a treasury officer or sub-treasury officer finds that the stock of stamps of a particular value is surplus, he may issue such stamps in preference to stamps of a higher value in order to adjust the surplus stock. Stamps issued under this rule shall be used as laid down in Rule (3). In every such case the treasury officer, sub-treasury officer or vendor, as the case may be, shall give a certificate stating the value and number of the stamps required but not issued in order to adjust the surplus stock.(5)Any adhesive stamps used with impressed stamps shall be affixed to the impressed stamp of the highest value employed in denoting the fee.(6)When a Judge holds that a document is sufficiently stamped and, under the provisions of Section 149 of the Code of Civil Procedure, 1908, allows the deficiency to be paid, such additional impressed stamps or adhesive stamps or both as are necessary under the above rules to represent the amount of the deficiency shall be filed. On each impressed stamp so filed a reference to the insufficiently stamped document shall be endorsed.

433.

The following further instructions on the use of stamps are reproduced from page 187, Central Provinces Stamp Manual, for information and guidance-(1)With a view to facilitate the examination, under Section 6 of the Court-fees Act, of stamp fees paid on any document, any adhesive label or labels used in addition to an impressed stamp in order to make up the required value, should be affixed to the right hand upper corner of the first page of the document, immediately below the engraved portion of the stamp paper.(2)When two or more impressed stamps are used to make up the amount of the fee chargeable under the Court-fees Act, a portion of the subject-matter shall ordinarily be written on each stamped sheet. Where this is impracticable or seriously inconvenient, the document shall be written on one or more sheets bearing impressed stamps of the highest value, and the remaining stamps shall be punched and cancelled by the Court and filed with the record, a certificate being recorded by the Court on the face of the first sheet of the document to the effect that

the full Court-fee has been paid in stamps. The writing on each stamped sheet shall be attested by the signature of the person or persons executing the document.(3)Documents should be written on that side of the paper only which bears the stamp. When one or more impressed stamps used to denote a fee are found insufficient to admit of the entire document being written on the side of the paper which bears the stamps, so much plain paper may be joined thereto as may be necessary for the complete writing of the document and the writing on the impressed stamps and on the plain paper should be attested by the signature of the person or persons executing or signing the document.Note. - Officers should not refuse to receive documents which have not been prepared or stamped in the manner directed by the above rules. But they should impress upon parties and pleaders the necessity of observing the said rules if they wish to protect their own interests and avoid delay.

434.

The Court-fee payable on probate of a will, letters of administration or on a certificate under the Indian Succession Act, 1925, are not to be calculated on even hundreds of rupees. Such fees are leviable under Articles 11 and 12 of Schedule I of the Court-fees Act as amended in their application to the State of Madhya Pradesh and must by the terms of those Articles be calculated on the actual amount or value of the property concerned.

435.

When an order remanding a suit under Order XLI, Rule 23, is set aside on second appeal, revision or review, and the Appellate Court which passed it is required to decide the appeal on the merits, it shall not rehear the appeal until the Court-fee refunded under Section 13 of the Court-fees Act has been repaid.Cancellation of Court-Fee Stamps

436.

The following material instructions on the cancellation of Court-fee stamps are adapted from the Central Provinces and Berar Stamp Manual-A. Documents furnished by a public officer.(1)Cancellation of Court-fee labels on copies, and other documents issued from public offices or Courts. - Every Court-fee label attached to any copy, or other document denoting copying fees as well as Court-fees, if any under Article 6, 7 or 9 of Schedule I to the Court-fees Act, 1870, issued from any Court or office, shall, before issue of such copies, or other documents, etc., be cancelled by such officer as the Court or the Head of the Office may appoint for the purpose, by-(a)a punching out a "C" hole in the centre of the left half of the label, and(b)putting the date of issue and signature across the label, so as to extend to the paper on either side of it.(2)Cancellation of Court-fee labels used for payment of stamp duty under the Indian Stamp Act, 1899. - Every Court-fee label affixed under Rule 17 (e) of the Indian Stamp Rules, 1925, on copies of maps or plans, printed copies and copies of, or extracts from, registers given on printed forms, certified to be true copies (e.g., true copies of extracts of baptismal, marriage and burial certificates, etc.), shall be cancelled by the officer issuing them by writing his name and date across the label.B. Documents received by a public officer.(3)Cancellation of impressed Court-fee stamps. - On the presentation in any court or office of

a document written on an impressed Court-fee stamp, it shall be the duty of the officer, referred to in Rule 12 below, after satisfying himself that the stamp is genuine and that the document is fully stamped to punch out every figure-head on the impressed portion of the stamp. The cancellation of the stamp is then complete. Note 1. - The words "presentation of the document" do not include the case of the presentation of stamp on which refund or renewal is claimed. Note 2. - It should be carefully noted that ascertainment of the sufficiency of the stamp should precede cancellation. Cancellation indicates that the cancelling officer is satisfied that the document is stamped sufficiently and is also "properly" stamped in other respects. (4) Cancellation of Court-fee labels. - On the presentation in any Court or office of a plaint, petition, or other document bearing a Court-fee label or labels it shall be the duty of the officer, referred to in Rule 12 below, after satisfying himself that the label or labels are genuine and have not been previously used, and that the document is fully stamped, to- (a) punch out the figure-head of each label, leaving the amount designated untouched; (b) cancel each label by a rectangular metal date- stamp bearing the following inscriptions- (i) name of the Court or office; (ii) name of the place; (iii) date, month and year; and (iv) the word "Cancelled". Violet ink shall be used with this stamp. (c) note on the right hand top corner of the document, in ink, the value of the label or labels, which it bears, and initial such note. C. Checks on the observance of the rules in regard to cancellation. (5) Cancellation by record-keeper. - It shall be the duty of the record-keeper of the Court or office to- (a) examine every document which comes into his custody in order to ascertain firstly whether all stamps and labels have been cancelled as required by the above rules, and secondly, whether the value of label or labels, if any, which it bears, corresponds with their values as noted in the receiving Court or office, and (b) cancel each label by a circular date stamp bearing date, month and year and the name of the Court or office concerned. Blank ink shall be used with this stamp. (6) It shall be the duty of record-keeper of the Court or office to report to the officer to whom he may be immediately subordinate, every case in which he finds- (1) that the stamp has not been cancelled in the manner prescribed above, or (2) that the value of the label or labels on any document does not correspond with their values as noted in the receiving Court or office. (7) It shall be the duty of the officer receiving a report under Rule 6, to submit the case for the orders of the District Judge through the officer-in-charge of the record-room or other head of the office. (8) In every District Court it shall be the duty of the Clerk of Court once a month to satisfy himself, by inspection of the records lodged in the record-room during the previous month that the orders in Rules (1) to (5) above are being carried out. (9) In every District Court it shall be the duty of the District Judge or the Officer-in-charge of the record-room to make a general inspection of the record-room, not less than once in every six months, and satisfy himself that the orders contained in the above rules are being carried out. (10) An inspection book shall be kept in the office of the District and Sessions Judge in the prescribed form (No. XXI-13/Stamp English) and a note will be made therein of all inspections made under Rules (8) and (9). When the inspection is made by the Clerk of Court the book shall be sent to the District Judge for information and orders. (11) The presiding judge of a Court, other than the District Court, where a record-room is maintained, shall arrange for a periodical inspection of the records of his Court as nearly as may be in the manner prescribed by Rules (8) and (9). D. Miscellaneous. (12) Cancelling officer. - The duty of cancelling impressed Court-fee stamps and Court-fee labels in the manner prescribed in Rules (3) and (4) shall be entrusted to the reader to the Court or to any officer appointed thereto by the head of the office, excepting that the duty shall not be assigned to any person who is charged with the sale of Court-fee stamps. (13) Destruction of

punched out pieces. - The figure-heads or pieces of stamps or labels removed by punching shall be destroyed by burning or some other effective means.

437.

Punches for effecting the cancellation in the Nazarat prescribed in Rule 423 foregoing, in respect of process-fees, should mark the letter No.

438.

The Officer of the Court issuing copies, certificates or other similar documents shall, before issue, cancel the labels and punch the Court-fee stamps affixed to them together with the Court-fee stamps required for such copy by law [See Articles 6, 7, 8 and 9 of Schedule I of the Court-fees Act, 1870, as amended by the Central Provinces Courts (Amendment) Act, 1935.]

439.

Judges should make an occasional inspection of documents that have been filed in the records of pending and disposed of case, in order to ascertain that the proper Court-fee has been realized and that the stamps have been properly punched and defaced, and have not been subsequently removed from the documents on which they have been used. Rules Under Section 27 (C) The following rules have been made by the State Government under clause (c) of Section 27 of the Court Fees Act, 1870 while exercising the powers conferred under that section for regulating the renewal of damaged or spoiled stamps. (1) "Deputy Commissioner" or "Collector" includes any other officer whom the State Government may appoint in this behalf by name or by virtue of his office. (2) Ordinarily renewal of spoiled adhesive stamps shall not be allowed except when they are used in continuation with impressed stamps. Note. - To meet cases of special hardship, the State Government has made provisions in Chapter IX in Part II of the Stamp Manual in respect of grant of refund. (See Executive Instructions under Sections 26-27 of Refunds and Renewals). (3) (i) If any person possessing damaged or spoiled impressed stamps delivers up the same to the Deputy Commissioner or Collector for cancellation and applies for its renewal within six months after the stamp has become damaged or spoiled, the Deputy Commissioner or Collector may, if satisfied of the sufficiency of the grounds of the application, cancel and renew such stamps. (ii) For the purposes of this rule the renewal of a damaged or spoiled stamp means the supply in lieu thereof of a fresh stamp or stamps of a similar kind and equal value or if required and the Collector thinks fit, stamp of any other description of the same amount in value. (iii) A stamp be deemed to be damaged or spoiled - (a) When the stamp or paper on which it is impressed or affixed has been inadvertently or undersignedly spoiled, obliterated, or by any means rendered permanently unfit for use, whether the said paper be written on or not; or (b) When by reason of some material error in the writing or copy of a stamped document, it has become of no avail, or (c) When the purpose intended to be effected by stamped document has been effected by some other document duly stamped. Direction Under Section 26. The Provincial Government has issued the following directions under Section 26 of the Court-fees Act, 1870 (VII of 1870) - (1) When in any case the fee chargeable under the said Act is less than Rs. 25/- such fee shall be denoted by the adhesive stamps. The adhesive stamps to be used shall either be

adhesive stamps of the size and pattern bearing the words "Court-fee" and containing three lines in the middle with the King's head and the value printed on the left side, or adhesive stamps of any different shape, size or pattern, bearing the words "Court-fee" which may hereafter be issued for use, in supersession of or in addition to the adhesive stamps now in use.(2)When in any case the fee chargeable under the said Act amounts to or exceeds Rs. 25/- such fee shall be denoted by impressed stamps bearing the words "Court-fee", adhesive stamps being employed to make up fractions of less than Rs. 25.(3)If in any case the amount of the fee chargeable under the said Act involves a fraction of an anna, such fraction shall be remitted.(4)The additional court-fee payable under Section 19-E of the said Act on probates or letters of administration shall be denoted in the aforesaid manner.Instructions under the Court-fees Act & the Stamp Act.

1. General. - The High Court desires to remind all Civil Judges of their duty to protect the revenue of the province by seeing that the provisions of the Court-fees Act and the Stamp Act are properly enforced. This duty fall under two main heads and consists (a) of seeing that documents filed before them are properly stamped, (b) of seeing that the machinery set up to check the proper use of stamps is worked thoroughly and conscientiously both the themselves and by the subordinate staff.

2. Complaints, Memoranda of Appeals, etc. - It is the duty of the officials receiving complaints, memoranda of appeal and applications to examine them to see that they are properly stamped. This does not in any way absolve the Judge from the duty of seeing that the proper dues have been paid. When the Judge reads through the complaint or other document it is his duty to see that the valuation is clearly explained, that when two or more reliefs are asked for, their separate valuation is clearly set out, and generally that the proper dues have been paid.

Note. - Order VII, Rule 1, Civil Procedure Code, requires that a complaint shall contain a statement of its value for the purpose of determining Court-fee, Order VII, Rule 8 requires that distinct relief founded on separate grounds must be set forth distinctly and separately. Section 17, Court-fees Act, deals with the taxing of such suits.

3. Judges are not to rely on the opposite party raising the matter of valuation for Court-fees, nor if the opposite party raises the matter of valuation and subsequently does not press the matter, should the Judge automatically hold against them on the analogy of an ex parte decision. In many cases the opposite party will not raise the issue of under-valuation as proper valuation may increase their costs should the final decision of the proceedings be against them. It should be noted that there is in this respect a difference

between valuation for jurisdiction and valuation for assessing court-fees. In dealing with jurisdiction unless under-valuation or over-valuation is patent on the face of the plaint or other document, the Court may require the plaintiff or party filing the document to show that valuation is proper if the opposite party takes objection but not otherwise, In dealing with the assessment of Court-fees it is the Court's duty, whether the opposite party takes objection or not, to see that the proper fees are paid.

At the same time it must be borne in mind that the primary business of a Court is to decide disputes between litigants and that it is very undesirable that such disputes should go off on stamp points and a Judge should accordingly be careful while requiring payment of the proper dues not, save when absolutely necessary, to so frame the order as to cause the litigation to determine.

4. It follows from the above instructions that the practice of admitting suits and appeals in which doubt is felt about Court-fees subject to objection later by the opposite side is highly objectionable and should never occur. At the same time in cases of doubt the Judge should lean towards, the litigant and in all cases he should bear in mind that litigation should not, if possible be allowed to go off on stamp points.

5. Applications. - The general rule is that all applications or petitions made to a Civil Court unless otherwise provided require a court-fee stamp under Article 1, Schedule II of the Court Fees Act. While this rule is of the simplest Courts appear to find difficulty in deciding when applications are necessary, some failing to obtain applications when necessary and some demanding applications when such cannot legally be demanded. For certain purposes the Civil Procedure Code requires an application to the Court precedent to action being taken. For other purpose the Judge may require an application to be filed. In both these cases it is the duty of the Judge to see that the application is properly stamped under the Court Fees Act. In other matters an application is neither necessary nor compellable. In such a case a party may or may not file an application as he chooses. If he chooses to do so the application must be stamped. If he does not choose he cannot be compelled to file an application. The principle is that the Court may require an application in all cases (a) where it is not bound to take the next steps or (b) where it has not acted suo motu in ordering the next step. The Court must require an application in cases where the Code requires an application. This principle may be better explained by reference to a few examples.

(These examples are not to be read as discouraging the issue of orders suo motu). (a) A Court is not bound to issue a first summons to a defendant (Order V, Rule 1). Therefore, it may require an application stamped under Article I, Schedule II, Court-Fees Act, before so issuing. Normally, however, the Court orders issue suo motu. Once the order has been passed an application cannot be demanded. (b) If the first summons to a defendant is not served Order IX, Rule 6, provides that the Court shall in certain circumstances issue a fresh summons (except in cases covered by Order IX, Rule 5). For this purpose, therefore, the Court has no power to demand an application. But if the plaintiff elects to file an application the Court must see that it is stamped. (c) The Code lays down that when an application for the purpose is made the Court may issue a first summons to a witness or a person called to produce a document (Order XVI, Rule 1). In this case therefore, the Court should compel an application and should not proceed suo motu. Such an application would require to be stamped under Article 1, Schedule II, Court-fees Act, but for the operation of Section 19 (xiv), *ibid*, by which this type of application is exempted from fee. (d) The Code provides in Order XVI, rule 10, that the Court may issue a subsequent summons on failure of service under Order XVI, Rule 1. Here, therefore, the Court may demand a stamped application or may proceed suo motu. Such subsequent applications are not exempt under Section 19 (xiv), Court-fees Act, and must be stamped. (e) When a Court has ordered execution of a decree under Order XXI, Rule 17 (4), it is provided under Rule 24 of Order XXI that the Court shall issue its process in execution. It is, therefore, incorrect to compel the decree-holder to file a separate stamped application for issue of process. (f) If process issued under Order XXI, Rule 24, is unserved, the Court is bound to record the result of the enquiry under Order XXI, Rule 25 (2), but there is no provision in the Order specifically requiring it to take further steps. The Court may, therefore, act suo motu or on an oral request in ordering the issue of fresh process or may require a stamped application to this effect. (g) An application for execution of a decree usually contains a prayer to realize money and pay it to the decree-holder, *vide* Form No. 6, Appendix E, Civil Procedure Code. The Court is bound to deal with the prayer to pay out by an order and having passed an order to pay out, cannot subsequently insist on an application for payment. The Court should, however, insist on a memorandum which should state the number of the case, the names of the parties, the amount and nature of the deposit, the amount ordered to be paid and the date of such order. The memorandum should not contain any prayer; if it does, it amounts to an application and must be stamped as such. Attention to the principles laid down and the above examples should obviate difficulty in the matter.

6. Judges have at times been led into difficulty owing to the provisions of Section 19 (iii) of the Court-Fees Act. Their attention is drawn to the fact that the only provision in the Court-Fees Act making written statements liable to tax is Article 1 of Schedule I, which makes written statements pleading a set off or counter claim taxable. The act being a fiscal enactment will be interpreted in favour of the subject. Section 19 (iii) of the Act will not exempt from liability written statements pleading a set off or counter claim even though it be called for by the Court. On the other hand, it will not render other written statements liable whether called for by the Court or not.

7. Copies. - Under Articles 6, 7 and 9 of Schedule I to the Court-Fees Act certain copies require stamping under that Act. The Court-fees payable on these copies are remitted when the copies are furnished for the private use of persons applying for them. Documents on which the Court-fees have been remitted on the ground that they are required for private use cannot, however be filled, exhibited or recorded in any Court or received by any public officer until the Court-fees remitted have been attached. It is not uncommon for parties to obtain remission by stating that documents are required for private use and then to file them as exhibits in case without paying the remitted court-fee. This practice must be stopped. Clerks appear to find difficulty in differentiating between the copying fees paid on such documents and the Court-fees required, and the Judges should carefully check copies filed and aid the clerks by advice where necessary.

8. Courts will note that copies of documents certified to be true by a public officer and not covered by the Court-Fees Act require in certain cases stamping under Article 24, Schedule I of the Indian Stamp Act. The fees under the Stamp Act must be paid by nonjudicial stamps (Rule 6, Stamp Rules, at page 101 of the Stamp Manual) except in the case of copies of maps or plans, printed copies and copies of or extracts from register given on a printed form in which case court-fee stamps will be used (Rule 17 (e), *ibid.*)

Note. - A general power of attorney need not be filed in original. A copy should be filed and the original presented for verification. The agent, who presents the copy, should certify it under his signature to be a true copy and the clerk who verifies it should write 'verified' above his signature and date. A copy of the registration endorsement is not necessary. A note giving the name of the registration office and the number and page of the book in which the original has been registered would suffice. The copy so filed and verified does not require any Court-fee stamp under Articles, Schedule I to the Court-fees Act, 1870.

9. Exhibits. - It is under the head of exhibits that the largest leakage of public revenue occurs. Section 33, Stamp Act, contains a peremptory direction that every Judge must examine all documents chargeable under the Stamp Act produced before him to ascertain whether it is duly stamped, i.e., to see if the stamp is of the correct value and description, vide Section 2 (11) of the Stamp Act. Section 35, *ibid*, makes documents not duly stamped inadmissible in evidence subject to certain provisos. The Court should, however, be very slow to shut out evidence on a stamp point and should

always, where practicable, admit subject to penalty. The Court thus has in dealing with exhibits (i) to see that evidence inadmissible under Section 35, Stamp Act, is rejected, (ii) to see that the public revenue is protected, (iii) to see that evidence is not shut out where it may be received conditionally, e.g., on payment of penalty.

10. All documents filed in Court, either alongwith the plaint or thereafter, should be examined at the time of presentation in Court to find out whether proper duty has been paid and whether they are liable to penalty under Section 35, Stamp Act. Such inspection should not be deferred till the time when the documents are actually sought to be admitted in evidence. The necessity for this early examination is apparent, for a Judge engaged in recording evidence may find difficulty in examining from the revenue angle all documents tendered to a witness for proof. Further, under Section 36, Stamp Act, once a document has been admitted in evidence the admission cannot be called in question at any stage of the same suit by the trying Court. This provision makes examination of the document immediately on production before the Court necessary, as an erroneous admission cannot be questioned except in a higher Court under Section 61, Stamp Act. The initial checking of such documents may be done by a senior clerk but it is primarily the duty of the Judge who should therefore effectively supervise his subordinate's check.

11. In checking documents it is necessary to check the contents of the document as a whole and not rely on the heading or description of the document. Past experience shows that attempts are frequently made to evade payment of proper stamp duty by giving a wrong description of the document. The Court, must, therefore, carefully examine each document and be particular in distinguishing acknowledgments of debts (Article 1, Schedule 1) from promissory notes (Article 49), promissory notes from agreements and bonds (Articles 5 and 15), receipts (Article 53) from leases (Article 35), releases (Article 55) from partitions (Article 45), settlements (Article 58) from gifts (Article 33) and so on.

12. Control. - As indicated in paragraph 1, one of the important duties of the Judges is to protect the revenue of the State by seeing that the machinery to prevent loss of revenue is worked effectively by them or their subordinates.

That machinery in respect of Court-fees stamps is described in pages 190 to 194 of the Stamps Manual and every Judge should make himself familiar with it. It has been found that if these instructions are properly attended to, the risk of defalcation is slight. Officers will find ample opportunity of seeing that these instructions are followed by turning over the pages of records when put up to them. In some cases memoranda are submitted for the signature of the Judge with the order "issue" endorsed on the back so that the Judge when signing is unable to see that the Court-fees stamps required for the payment of process-fees are attached. Obviously it is desirable that the order should be endorsed so that the Judge when signing can see that the stamps have been attached, that the rules have been followed and that no stamps have been removed. It is the duty of the Judge to see that all memoranda in which free issue is directed actually correspond to an order to this effect made by him. It is by continual unobtrusive vigilance of this sort that the system of control can be made to work properly.

Reduction and Remissions of Court-Fee by State Government Under Section 35 of the Court-Fees Act, 1870

431.

The State Government has made the following reductions and remissions in the fees chargeable under the First and Second Schedule of the Court-fees Act, 1870, namely:-* * * *

2. The fees chargeable on applications presented to a Collector for refund of the amount paid to the State Government for stamped paper which has become spoiled or unfit for use, or is no longer required for use and on applications for renewal of stamped paper which has become spoiled or unfit for use.

3. When a plaint disclosing a reasonable case on the merits is presented to any Civil Court * * * * in such a form that the presiding Judge * * * * without summoning the defendant, rejects it not for any substantial defect but on account of an entirely technical error in form only, and so as to leave the plaintiff free to prosecute precisely the same case in another form against the same defendant or defendants, the value of stamp on the plaint shall be refunded on presentation of an application to the Collector together with a certificate from the Judge * * * * who rejected the plaint that it was rejected

under the circumstances above described, and that the value of the stamp should, in his opinion, be refunded,

* * * *

7. The fees chargeable under Articles 6,7 and 9 of the First Schedule on copies furnished by Civil * * * * Court * * * * for the private use of persons applying for them:

Provided that nothing in this clause shall apply to copies when filed, exhibited or recorded in any Court of Justice or received by any public officer.

8. The fees chargeable, under paragraph 4 of clause (a) and paragraph 6 of clause (b) of Article 1 of the Second Schedule on application for orders for the payment of deposits in cases in which the deposit does not exceed Rs. 25 in amount:

Provided that the application is made within three months of the date on which the deposit first became payable to the party making the application.* * * *

14. The fee chargeable on an application presented by any person for the return of a document filed by him in any Court or public office.

* * * *

16. The fee chargeable on an application for the repayment of a fine or of any portion of a fine the refund of which has been ordered by competent authority.

17. The fees chargeable on applications for copies of documents detailed in item 14, supra.

* * * *

22. The fees on the property of (i) any person subject to [the Navy Act, 1957 (62 of 1957), the Army Act, 1950, or the Air Force Act, 1950] who is killed while on active service or on service which is of a war-like nature or involves the same risk as active service or dies from wounds inflicted, accidents occurring or disease contracted while on such service, and (ii) any person being a Government servant, civil or military, who dies from wounds or

injuries intentionally inflicted while in actual performance of his official duties or in consequence of those duties:-

(a)where the amount or value of property in respect of which the grant of probate or letters of administration is made or which is specified in the certificate under Part X of the Indian Succession Act, 1925, does not exceed Rs. 50,000, to remit the whole of the fees leviable in respect of that property,(b)where the said amount or value exceeds Rs. 50,000, to remit the whole of the said fees in respect of the first Rs. 50,000,(c)where any property passes more than once in consequence of such deaths, to remit, in the case of second and subsequent successions, the whole of the said fees irrespective of the value or amount of such property;* * * *

26. The fees chargeable on applications presented to Courts with reference to Rule 2, Order XXI, First Schedule, Code of Civil Procedure, 1908 (V of 1908), in relation to awards made in the course of conciliation proceedings held with the sanction of the State Government:

* * * *

32. The fees chargeable under Article 6 of the Second Schedule to the Court-Fees Act, 1870 (VII of 1870), in respect of security bonds hypothecating property executed in pursuance of orders of the Courts under the Code of Civil Procedure, 1908 (V of 1908).

* * * *

36. The fees chargeable under Article 9 of the First Schedule to the Court-fees Act, 1870, on copies of documents referred to therein filed with any petition or appeal or revision made * * * by any Government servant * * * in the * mentioned in item 30 above.**

* * * *

37. The fees chargeable in respect of Indian probates, letters of administration or succession certificates on the share or interest of a deceased member of a company formed under the [Companies Act, 1956 (I of 1956)], whose name was registered in a branch register kept in [any State or country outside India] in accordance with the provisions of Sections [157 and 158] of the Act, and who was, at the time of his death, domiciled elsewhere than in India.

* * * *

41. The difference between the Court-fees chargeable in accordance with Section 8 of the Government Savings Banks Act, 1873, on the probate, or letters of administration, or certificate, if any, granted under the Indian Succession Act, 1925, and the Court-fees as would be chargeable, if for the words "three thousand rupees" the words "five thousand rupees" had been substituted in that section.

* * * *

45. Application for the grant of letters of administration in respect of estates of persons killed by enemy action.

* * * *

1. The fees chargeable on appeals from orders under Section 47 or Section 144 of the Code of Civil Procedure, 1908 (V of 1908), shall be limited to the amount chargeable under Article 11 of the Second Schedule.

2. When a part of an estate paying annual revenue to the State Government under a settlement which is not permanent is recorded in the Collector's register as separately assessed with such revenue, the value of the subject matter of a suit for the possession of, or to enforce a right of pre-emption in respect of, a fractional share of that part shall, for the purposes of the computation of the amount of the fee chargeable in the suit, be deemed not to exceed seven and half times such portion of the revenue separately assessed on that part as may be rateably payable in respect of the share.

* * * *Reductions and Remissions for Criminal Courts
Extracts from Rules and Orders Criminal
Rules 550-553

550.

So far as Criminal Courts are concerned, the following remissions are made by the Provincial Government in Court-fees chargeable under the First and Second Schedules of Court-fees Act, 1870:-(1)If the amount of the fee chargeable in any case involves a fraction of an anna, the fraction shall be remitted, except where otherwise expressly provided for.* * * *(5)The fees chargeable on security bonds for the keeping of the peace by, or good behaviour of, persons other than the executants.(7)The fees chargeable under Articles 6,7 and 9 of the First Schedule on copies furnished

by..... Criminal Courts..... for the private use of persons applying for them: Provided that nothing in this clause shall apply to copies when filed, exhibited or recorded in any Court of Justice or received by any public officer. (8) The fees chargeable, under..... paragraph 6 clause (b) of Article 1 of the Second Schedule on application for orders for the payment of deposits in cases in which the deposits does not exceed Rs. 25 in amount: Provided that the application is made within three months of the date on which the deposit first became payable to the party making the application. * *

*(13) The fees chargeable on the following documents, namely:-(a) copy of a charge framed under Section 210 of the Code of Criminal Procedure, 1898 (V of 1898), or of a translation thereof, when the copy is given to an accused person, (b) copy of the evidence of supplementary witness after commitment when the copy is given under Section 219 of the said Code to an accused person, (c) copy or translation of a judgement in a case other than a summons case, copy of the heads of the Judge's charge to the jury and copy of the transcript of the charge, when the copy or translation is given under Section 371 of the Code to an accused person, (d) copy or translation of the judgement in a summons case when the accused person to whom the copy or translation is given under Section 371 of the said Code is in jail, (e) copy of an order of maintenance, when the copy is given under Section 490 of the said Code to the person in whose favour the order is made, or to his guardian, if any, or to the person to whom the allowance is to be paid, (f) copy furnished to any person affected by a judgement or order passed by a Criminal Court of the Judge's charge to the jury of any order, deposition or other part of the record, when the copy is not a copy which may be granted under any of the preceding sub-clauses without the payment of a fee, but is a copy which, on its being applied for under Section 548 of the said Code, the Judge or Magistrate, for some special reason to be recorded by him on the copy, thinks fit to furnish without such payment, (g) copies of all documents furnished under the orders of any Court or Magistrate to the Advocate-General, Public Prosecutor, Assistant Public Prosecutor, a private legal practitioner or any other officer or specially empowered in that behalf for the purpose of conducting any trial or investigation on behalf of the Crown before any Criminal Court. (h) copies of all documents which the Advocate-General, Public Prosecutor, Assistant Public Prosecutor, a private legal practitioner or any other officer or person is required to take in connection with any such trial or investigation for the use of any Court or Magistrate, or may consider necessary for the purpose of advising the Crown in connection with any criminal proceedings, (i) copies of judgements or depositions required by officers of the police department in the course of their duties. (14) The fee chargeable on an application presented by any person for the return of a document filed by him in any Court or public office. * * * (16) The fee chargeable on an application for the repayment of a fine or of any portion of a fine the refund of which has been ordered by competent authority. (17) The fees chargeable on applications for copies of documents detailed in item 13 supra. * * * (27) The fees chargeable on copies of documents furnished by a District Magistrate, a Sessions Judge or the Registrar of the High Court of Judicature at Nagpur to a counsel engaged by the Provincial Government to appear in defence of a pauper accused and on copies of statements referred to in Section 162 of the Criminal Procedure Code, given to a pauper accused charged with an offence punishable with death. * * * (30) The fees chargeable on petitions for appeal or revisions presented in person or sent by post by any servant of the Crown in accordance with-(1) the Civil Services (Classification, Control and Appeal) Rules, (2) the rules issued under the General Administration Department Notification No. 44-2751-VI of 1933, dated the 10th January, 1934, (3) the rules contained in paragraph 4 of General Book Circular 1-13. * *

*(36) The fees chargeable under Article 9 of the first Schedule to the Court-fees Act, 1870, on copies

of documents referred to therein filed with any petition or appeal or revision made by any servant of the Crown in the manner mentioned in item 30 above.* * *(38)The fees chargeable on bail-bonds given in pursuance of an order made by a Court or Magistrate under any section of the Code of Criminal Procedure, 1898 (V of 1898).(39)The fees chargeable under Article (6) of Schedule II of the Court fees Act, 1870 (VII of 1870), on supratnamas in criminal proceedings.(40)The fees chargeable under (b) of Article I to Schedule II of the Court-fees Act, 1870 (VII of 1870), on all applications or petitions to Criminal Courts on behalf of the state.

551.

The attention of the Courts is invited to the provisions of sub-sections (1) and (2) of Section 371 of the Code of Criminal Procedure. The words "free of cost," in that section grant an exemption only from copying charges, not from stamp duty. Costs payable on copies of Judgements are of three kinds:-(a)Court-fees payable on the application for copies,(b)Court-fees payable when the copies are filed, exhibited or recorded in any Court of Justice (Section 6 of the Court-fees Act),(c)the charges for making the copies. These charges are not Court-fees although for the sake of convenience they are levied by affixing equivalent Court-fee stamps to the copies (Part V, Chapter 26, Rule 641).In order to give effect to the provisions of Section 371, items (a) and (b) have been remitted [vide items 13 (c) and (d) and 17 in Rule 550] on copies of judgements delivered to an accused in cases other than summons cases, on copies of judgements delivered to an accused who is in jail in summons cases, and on copies of the heads of charge to the jury delivered to an accused, and item (c) has been remitted in similar cases [vide Part V, Chapter 26, Rule 641). It should be carefully noted that the remission of item (c) in Part V, Chapter 26, Rule 641 applies to copies of documents other than those laid down above, e.g., to final orders in cases under Sections 108 to 110 of the Code of Criminal Procedure, but no corresponding remission of items (a) and (b) has been made in connection with those documents and care should be taken that the correct fees are recovered.

552.

Under Section 424 of the Code of Criminal Procedure the provisions of Sections 368 to 373 of the Code apply to the Judgements of Appellate Courts other than the High Court. The observations in Rule 551 consequently apply to judgements of Appellate Courts and an accused in a summons case who is in jail is entitled to a copy of an appellate judgement free of cost whether he has received a copy of the judgement of the Trial Court or not.

553.

Section 371 of the Code of Criminal Procedure envisages the grant of one copy to each accused and cannot be used for a demand for successive copies by the same person. In order to prevent such successive demands being met the head copyist should note on the order sheet of a case whenever a free copy is supplied under Section 371 of the Code and check whether such a note already exists when dealing with the grant of copies under that section.Subsequent Notifications(1)[Notification No. 16046-6408-XXI-B.] [Published in M.P. Rajpatra Part I, dated 14-8-1964 at page 1937.] - In exercise of the powers conferred by Section 35 of the Court fees Act, 1870 (VII of 1870) and in

supersession of all previous notifications in this behalf, the State Government are pleased to remit the Court-fee recoverable from a Banking Company within the meaning of the Banking Companies Act, 1949 (X of 1949) on every application, suit or proceedings filed or instituted by or against such Banking Company in the course of or in connection with its winding up, and on every document or copy thereof filed in or in connection with such application, suit or proceeding.(2)[Notification F. No. 9-1-83-B-XXI, dated the 1st April, 1983.] [Published in M.P. Rajpatra (Asadharan), dated 1-4-1983 at page 1062.] - In exercise of the powers conferred by Section 35 of the Court Fees Act, 1870 (No. 7 of 1870), the State Government hereby reduces to the extent of fifty percent, the Court fees payable on plaint referred to in Article 1-A and 2 of the First Schedule and Articles 5,17 and 21 of the Second Schedule to the said Act, for any relief for protection of his rights by an agriculturist ordinarily residing in a village or in an area in this State, which in either case is declared by the Collector, from time to time, drought-affected village or area during the currency of such declaration.(3)[Notification F. No. 9-1-83-B-XXI, dated the 1st April, 1983.] [Published in M.P. Rajpatra (Asadharan), dated 1-4-1983 at page 1062.] - In exercise of the powers conferred by Section 35 of the Court Fees Act, 1870 (No. 7 of 1870), the State Government hereby remits in the whole of the State of Madhya Pradesh, the Court fees mentioned in Articles 1-A and 2 of the First Schedule and Articles 5, 17 and 21 of the Second Schedule to the said Act payable on plaint by the following categories of persons whose annual income immediately preceding the date, presentation of plaint from all sources does not exceed rupees six thousand, namely:-(i)Member of Schedule Tribes;(ii)Member of Schedule Caster;(iii)Minors;(iv)Women;(v)Artisen;(vi)Unskilled labourer;(vii)Landless labourer;(viii)Person belonging to the weaker section of society.Explanation. - For the purposes of this notification:-(i)"Member of Scheduled Castes" means a member of any caste, race or tribe or part of or group within caste, race or tribe specified as such with respect to the State of Madhya Pradesh under Article 341 of the Constitution of India;(ii)"Member of Scheduled Tribes" means a member of any tribe, tribal community or part of or group within a tribe or tribal community specified as such with respect to the State of Madhya Pradesh under Article 342 of the Constitution of India.(4)[Notification F.No. 9-1-84-B-XXI, dated the 29th December, 1984.] [Published in M.P. Rajpatra (Asadharan), dated 29-12-84 at pages 3395-96.] - In exercise of the powers conferred by Section 35 of the Court Fees Act, 1870 (No. 7 of 1870), the State Government hereby remits in whole the Court fees mentioned in Article 1-A of the First Schedule and Articles 1,11 and 11-A of the Second Schedule payable on plaint presented by a person or appeal or revision preferred by the petitioner for compensation for-(i)any damage or injury caused to him or any member of his family; or(ii)the death of any member of his family; or(iii)any damage caused to his or any member of his family s property, on account of environmental pollution caused by the operation in an industry through leakage or escape of any dangerous gases, vapours, fumes, or dust from any part of the plaint.Explanation. - For the purpose of this notification the "family" includes husband, wife, minor son, unmarried daughter or any relation by blood wholly dependent on the claimant.(5)[Notification F. No. 9-2-86-B-XXI, dated 2nd August, 1986.] [Published in M.P. Rajpatra (Asadharan), dated 2-8-86 at page 1178.] - In exercise of the powers conferred by Section 35 of the Court Fees Act, 1870 (No 7 of 1870) and in supersession of the Department Notification No. F. 9-1-84-B-XXI, dated 29th December, 1984, the State Government hereby remits in whole the Court Fees mentioned in Article 1-A of the First Schedule and Articles 1,11 and 11-A of the Second Schedule payable on a plaint, appeal, revision or any other claim, as the case may be, presented by a person for compensation for,-(i)any damage or injury caused to him or any member or his family;

or(ii)the death of any member of his family; or(iii)any damage caused to him or member of his family's property; or(iv)any damage, injury to, or death of a citizen of India; or(v)any damage and/or loss caused to a Corporation, undertaking, establishment, association, department and any other juristic person;on account of environmental, vegetational, ecological water and such other pollutions caused by the operation in an industry through leakage or escape of any dangerous gases, vapours, fumes or dust from any part of the plant.Explanation. - For the purposes of this notification,-(i)"person" shall include the Government of India; and(ii)"family" shall include, husband, wife, minor son, unmarried daughter or any relation by blood wholly dependent on the claimant.(6)[Notification F. No. 9-1-86-B-XXI, dated the 10th April, 1987.] [Published in M.P. Rajpatra (Asadharan), dated 10-4-87 at pages 753-54.] - In exercise of the powers conferred by Section 35 of the Court Fees Act, 1870 (No. 7 of 1870), the State Government hereby remits in whole of the State of Madhya Pradesh the Court fees payable:-(1)on the application made to a Court for competent jurisdiction.-(a)for passing a decree in terms of compromise arrived at before or through the instrumentality of Lok Adalat;(b)for recording an adjustment of decree or order when proceeded by a settlement or compromise in writing arrived at before or through the instrumentality of Lok Adalat;(c)for compounding an offence under the provisions of Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force, as a result of a compromise arrived at before or through the instrumentality of Lok Adalat; and(2)on a plaint drawn in terms of the compromise arrived at before or through the instrumentality of Lok Adalat, filed before a Court of competent jurisdiction;(3)in case of settlement of a case pending before a Competent Court is made through the instrumentality of Lok Adalat the party shall be entitled to refund of the Court fees already paid by him.

2. This Notification shall be deemed to have come into force with effect from the 19th November, 1985.